Form **2440**
Department of the Treasury
Internal Revenue Service

Disability Income Exclusion

(Applies Only to Disabled Retirees Under Age 65)

▶ Attach to Form 1040. ▶ See Instructions on back.

1978

Name(s) as shown on Form 1040 | Social security number

See Instruction B for Income Limits on Exclusion

	Date you retired (if after December 31, 1976, also enter this date in the space after box (2) on physician's statement below).	Employer's name (also give payer's name, if other than employer)
Yourself		
Spouse		

Note: *To take the disability income exclusion, you must complete lines 1 through 7.*

Joint return filers use column (a) for wife and column (b) for husband. All other filers use column (b) only.

	(a)	(b)
1 Enter total disability payments you received during 1978		
2 *(i)* Multiply $100 by the number of weeks for which your disability payments were at least $100. Enter total		
(ii) If you received disability payments of less than $100 for any week, enter the total amount you received for all such weeks		
(iii) If you received disability payments for less than a week, enter the smaller amount of either the amount you received or the highest exclusion allowable for the period (see instruction D)		
(iv) Add lines (i), (ii), and (iii). Enter total		

3 Add amounts on line 2(iv). Enter total

rity number. If you retired after December 31, 1976, enter your retirement date in the space after box (2).

What is Permanent and Total Disability?
A person is permanently and totally disabled when—

ability (a) has lasted or can be expected to last continuously for at least a year or (b) can be expected to lead to death.

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Instructions

If you retired on disability, you may not have to pay tax on all of your disability income. You may be able to exclude part of it. The tests you must meet before you can exclude this income are explained below. For details, please see **Publication 522,** Tax Information on Disability Payments.

A. Who can Exclude Disability Income.—You can take the exclusion for 1978 if you meet ALL these tests:

- You received disability payments.
- You were not yet 65 when your tax year ended.
- You retired on disability and were permanently and totally disabled when you retired. (See What is Permanent and Total Disability? in Instruction C.) (See also Physician's Statement in Instruction E.) If you retired on disability before January 1, 1977, contact an IRS office for special rules that could affect you.
- On January 1, 1978, you had not yet reached the age when your employer's retirement program would have required you to retire.
- You did not notify IRS that you choose to treat your disability income as a pension instead of taking the exclusion. (See Instruction F.)
- If you were married at the end of 1978, you must file a joint return. (This rule does not apply if you did not live with your spouse at any time in 1978. If this is the case, write on the Spouse line on page 1, "I did not live with my spouse during the taxable year.")

If you meet these tests, you can take the exclusion until the earliest of the following dates:

(1) The first day of the tax year in which you turn 65.

(2) The first day of the tax year for which you choose to treat your disability income as a pension. (See Instruction F.)

(3) The day you reach the age when your employer's retirement program would have required you to retire.

B. Limits on Exclusion.—Generally, the most a person can exclude is $5,200. This exclusion decreases, dollar for dollar, by any amount over $15,000 on Form 1040, line 29. (To see whether your exclusion will be reduced, first complete Form 1040 through line 29. Be sure to include on line 8 all of your disability income.)

Based on these limits, there generally will be no exclusion if Form 1040, line 29 shows—

- $20,200 or more, and one person is eligible for the exclusion.
- $25,400 or more, and both husband and wife are eligible for the exclusion.

It may not be to your advantage to take the exclusion. Instead, you may want to treat your disability income as a pension. (See Instruction F.)

C. What is Permanent and Total Disability?—A person is permanently and totally disabled when:

- He or she cannot engage in any substantial gainful activity because of a physical or mental condition; and
- A physician determines that the condition (1) has lasted or can be expected to last continuously for at least a year or (2) can be expected to lead to death.

The examples below explain when a person is considered to be engaged in a substantial gainful activity. In such cases, the exclusion cannot be taken.

Example (1): Bob worked at a hotel as a desk clerk. After retiring on disability, he got a desk clerk job at another hotel. Bob was able to do all the duties required of the job and was paid more than the minimum wage. Because Bob is able to do the duties required of the job in a full-time competitive work situation and is paid more than the minimum wage, he is considered engaged in a substantial gainful activity. Therefore, he cannot take the disability income exclusion.

Example (2): Sue retired on disability as a sales clerk. She now works as a full-time babysitter and is paid more than the minimum wage. Even though Sue is doing different work, she is able to do the duties required of her new job in a full-time competitive work situation for pay more than the minimum wage. Therefore, she cannot take the disability income exclusion.

Example (3): Mary, president of the XYZ Corporation, retired on disability because of terminal illness. However, her doctor recommended that she work part time. She now works for another company as a part-time manager. She is paid more than the minimum wage and the employer sets her days and hours. Even though Mary's illness is terminal and she works part time, she is considered engaged in a substantial gainful activity. Therefore, she cannot take the exclusion.

Example (4): Jane retired on disability and now works at an easier job in a full-time competitive work situation. She earns half of what she used to, but is paid more than the minimum wage. She is considered engaged in a substantial gainful activity. Therefore, she cannot take the exclusion.

The example that follows explains when a person may not be considered to be engaged in a substantial gainful activity.

Example: John who retired on disability took a job with a former employer on a trial basis. The purpose of the job was to see if John could do the work. The trial period lasted for some time during which John was paid at a rate equal to the minimum wage. However, because of John's disability only light duties of a nonproductive make-work nature were given him. Unless the activity is both substantial and gainful, John is not engaged in substantial gainful activity. The activity was gainful because John was paid at a rate at or above the minimum wage. However, the activity was not substantial because the duties were of a nonproductive, make-work nature. Therefore, these facts do not, by themselves, establish John's ability to engage in substantial gainful activity.

D. How to Figure Exclusion.—You can exclude either your actual weekly disability pay or $100 a week, whichever is less. This table shows how to figure your weekly disability pay.

Pay period	Your weekly pay is the following part of what you receive each pay period
Weekly	All
Every 2 weeks	Half
Twice a month	Multiply your pay by 24, and divide the result by 52
Each month	Multiply your pay by 12, and divide the result by 52
Other	Divide your yearly pay by 52

Disability pay might be received for part of a week. If so, use a daily rate to figure the exclusion for that week. Payments for part of a week are made when one of the following happens after the first day of the taxpayer's normal workweek:

(1) The disability retirement begins.

(2) The disability retirement ends because the taxpayer reaches required retirement age.

(3) The taxpayer dies.

If you received disability payments for part of a week, follow the steps below.

Step 1. Divide $100 by the number of days a week you normally worked before you retired.

Step 2. Divide the disability pay you received by the number of days it covered in that week.

Step 3. Compare the Step 1 and Step 2 amounts. The smaller amount is your daily rate.

Step 4. Multiply your daily rate by the number of days you received disability pay in the short week. The result is your exclusion for that week.

E. Physician's Statement.—Attach to Form 2440 a physician's statement of permanent and total disability. (If both husband and wife take the exclusion, each must file a statement.) If you filed a statement for this disability in an earlier year, do not file another. Instead, check the box on Form 2440 below line 7.

If you retired on disability before January 1, 1977, the physician's statement must show that you were permanently and totally disabled on January 1, 1976, or January 1, 1977.

If you retired on disability on or after January 1, 1977, the physician's statement must show that you were permanently and totally disabled when you retired.

A physician's statement is provided for you on Form 2440. Please detach it from Form 2440 and have your physician fill it in. Be sure to attach the completed statement to Form 2440 and file it with your tax return.

If the Veterans Administration certifies that you are permanently and totally disabled, you can file Form 6004, instead of the physician's statement. Form 6004 must be signed by a physician on the VA disability rating board. You can get Form 6004 from the Veterans Administration.

F. Treating Disability Income as a Pension.—Instead of taking the exclusion, you can choose to treat your disability income as a pension. If you do, you can't take the disability income exclusion in any later year.

It may be to your advantage not to take the exclusion, but instead treat the income as a pension if:

(1) The income limits in Instruction B reduce your exclusion; or

(2) You reached minimum retirement age in 1978 and can take a Credit for the Elderly (Schedule RP (Form 1040)); or

(3) Because of your condition, you do not expect to live long enough to recover the tax-free part (your cost) of the pension.

To treat your disability income as a pension, attach to your Form 1040 a statement that:

- You are eligible to take the exclusion; and
- You choose to treat the income as a pension and will not take the exclusion.

If you retired in 1978, attach a physician's statement (described in Instruction E).

For more information, see instructions for **Schedule E (Form 1040),** Supplemental Income Schedule, and **Schedule RP (Form 1040),** Credit for the Elderly.

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