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.

1980

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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 9.*

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 pay you got during 1980		
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		

Box (2) applies to taxpayers who retired

Instructions

If you retired on disability, you have to include all of your disability income on Form 1040, line 8 (see Instruction F for exception). However, you may be able to exclude part of it. To do that, you must meet the tests explained below. For details, please see **Publication 522,** Disability Payments.

A. Who Can Exclude Disability Income.—You can take the exclusion for 1980 if you meet ALL these tests:

- You got disability pay.
- 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, 1980, you had not yet reached the age when your employer's retirement program would have required you to retire.
- You did not let IRS know that you chose to treat your disability income as a pension instead of taking the exclusion. (See Instruction F.)
- If you were married at the end of 1980, you must file a joint return. (This rule does not apply if you did not live with your spouse at any time in 1980. If this is the case, write on the Spouse line on page 1, "I did not live with my spouse during the tax 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 goes down, dollar for dollar, by any amount that your adjusted gross income before the disability income exclusion (Form 1040, line 22 less the total of amounts on lines 23 through 28) is over $15,000.

Generally, there will be no exclusion if your adjusted gross income before the disability income exclusion shows—

- $20,200 or more, and one person could take the exclusion.
- $25,400 or more, and both husband and wife could take the exclusion.

Taking the exclusion may not help you as much as treating 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 show substantial gainful activity. In such cases, the disability income 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 does all the duties of the job and is paid more than the minimum wage. Because Bob does the job on the same terms as the other desk clerks and is paid more than the minimum wage, he is considered engaged in a substantial gainful activity. 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 for more than the minimum wage. Even though Sue does different work, she babysits on ordinary terms for more than the minimum wage. 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 advised her to 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. 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. She cannot take the exclusion.

The following shows an example of a person who might 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 got 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 line 10 of Form 2440.

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 you can use is on Form 2440. Please take it off the form 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 help you more not to take the exclusion, but to treat the income as a pension instead. This may be so if:

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

(2) You reached minimum retirement age in 1980 and can take a **Credit for the Elderly** under the Schedule RP (Form 1040) rules; 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 1980, attach a physician's statement (described in Instruction E).

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