

Schedule 2440W

Wisconsin Department of Revenue

Enclose with Wisconsin Form 1 or 1NPR

Disability Income Exclusion

**(Applies Only to Disabled Retirees Under Age 65)
See instructions on back.**

2021

| | |
|--|--------------------------------------|
| Legal name(s) shown on Form 1 or Form 1NPR | Your social security number |
|--|--------------------------------------|

| | |
|------------------|--|
| Date you retired | Employer's name (also give payer's name, if other than employer) |
| Yourself | |
| Spouse | |

| | (1) YOURSELF | (2) SPOUSE |
|---|--------------|-------------|
| 1 Fill in the amount of your disability pay (see instructions) | 1 | |
| 2 Excludable disability pay (see instructions): | | |
| (a) Multiply \$100 by the number of weeks for which your disability payments were at least \$100. Fill in the total | 2a | |
| (b) If you received disability payments of less than \$100 for any week, fill in the total amount you received for all such weeks | 2b | |
| (c) If you received disability payments for less than a week, fill in the smaller amount of either the amount you received or the highest exclusion allowable for the period (see instructions) | 2c | |
| (d) Add lines 2a, 2b, and 2c. Fill in the total | 2d | |
| 3 Add amounts on line 2d, columns (1) and (2). Fill in the total on line 3 | | 3 |
| 4 Fill in the smaller of line 1 (total of columns (1) and (2)) or line 3 | | 4 |
| 5 Limit on exclusion (see instructions): | | |
| (a) Fill in adjusted gross income from federal Form 1040 or 1040-SR | 5a | |
| (b) Amount used to figure any exclusion decrease | 5b | \$15,000.00 |
| (c) Subtract line 5b from line 5a. If line 5b is more than line 5a, fill in -0- | | 5c |
| 6 Subtract line 5c from line 4 and fill in on line 6. If line 5c is more than line 4, fill in -0-. Full-year residents – This is your disability income exclusion. Fill in this amount on line 23 of Schedule SB (Form 1). If filing Form 1NPR, see the instructions for line 1 or line 9 of Form 1NPR. (Part-year residents – complete lines 7 and 8 below.) | | 6 |
| 7 Part-year residents – Divide line 6 by the number of weeks you received disability payments | | 7 |
| 8 Part-year residents – Multiply line 7 by the number of weeks you were a Wisconsin resident and received disability payments. This is your disability income exclusion. Fill in here and see the instructions for line 1 or line 9 of Form 1NPR | | 8 |
| 9 If you filed a physician's statement for this disability in an earlier year, check this box. <input type="checkbox"/> You do not have to file another statement. If you have not, you must file a physician's statement (see instructions). | | |

Physician's Statement of Permanent and Total Disability

Please complete and return to the person named below.

Name of disabled person _____

I certify that the person named above was (check only one box – please see instructions below)

- (1) Permanently and totally disabled on January 1, 1976, or January 1, 1977.
- (2) Permanently and totally disabled on the date he or she retired. Date retired ►

| | |
|------------------|---------------------|
| Physician's name | Physician's address |
|------------------|---------------------|

| | |
|-----------------------|------|
| Physician's signature | Date |
|-----------------------|------|

Instructions for Statement

Taxpayer

Please fill in your name. If you retired after December 31, 1976, fill in your retirement date in the space after box (2).

Physician

Box (1) applies to taxpayers who retired before January 1, 1977.
Box (2) applies to taxpayers who retired after December 31, 1976.

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 disability (a) has lasted or can be expected to last continuously for at least a year; or (b) can be expected to result in death.

2021 Schedule 2440W Instructions

Purpose of Schedule Persons who receive disability income may be able to exclude a portion of it from their taxable income. Complete this schedule to determine the amount, if any, of your exclusion.

What is Disability Income Generally, disability income is the total amount you were paid under your employer's accident and health plan or pension plan instead of wages for the time you were absent from work because of permanent and total disability. However, any payment you received from a plan that does not provide for disability retirement is not disability income.

Who Can Exclude Disability Income You can take the exclusion for 2021 if you meet ALL these tests:

- You received disability income which is not otherwise exempt from Wisconsin tax.
- You were under age 65 at the end of 2021. (If you were born on January 1, 1956, you are considered to be age 65 at the end of 2021.)
- You retired on disability and were permanently and totally disabled when you retired. (See "**What is Permanent and Total Disability?**" below and instructions for **Physician's Statement** on page 1.)
- On January 1, 2021, you had not yet reached the age when your employer's retirement program would have required you to retire.
- For any year prior to 1984, you did not choose to treat your disability income as a pension instead of taking the exclusion.
- If you were married at the end of 2021, you must file a joint return.
- You were a Wisconsin resident when you received the disability income.

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. (If you were born on January 1, 1956, you are considered to be age 65 at the end of 2021.)
- (2) The day you reach the age when your employer's retirement program would have required you to retire.

What is Permanent and Total Disability? A person is permanently and totally disabled if (1) he or she cannot engage in any substantial gainful activity because of a physical or mental condition, **and** (2) a physician determines that the condition has lasted or can be expected to last continuously for at least a year, or can be expected to result in death. An activity is considered substantial if it consists of duties that are more than those of a nonproductive, make-work nature. An activity is considered gainful if it pays at a rate at or above the minimum wage. The examples below show substantial gainful activity. In such cases, the disability income exclusion cannot be taken.

Example 1: Sue, who was a sales clerk, retired on disability. She now works as a full-time babysitter earning minimum wage. Although Sue does different work, she babysits on ordinary terms for the minimum wage. She cannot take the exclusion because she is engaged in an activity that is both substantial and gainful.

Example 2: Mary, president of the XYZ Corporation, retired on disability because of a terminal illness. On her doctor's advice, she works part-time as a manager and is paid more than the minimum wage. Her employer sets her days and hours. Although Mary's illness is terminal and she works part-time, the work is done at her employer's convenience. She is considered engaged in a substantial gainful activity and cannot take the exclusion.

Specific Instructions

Line 1 Fill in the amount of disability pay included in your federal adjusted gross income, less any amount that is otherwise exempt from Wisconsin tax (for example, retirement payments received from the U.S. government that relate to service with the Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, or the commissioned corps of the Public Health Service).

Lines 2a and 2b You can exclude either your actual weekly disability pay or \$100 a week, whichever is less. Your weekly pay is your total yearly pay divided by 52.

Line 2c If you received disability pay 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. Your exclusion for the week is based on it.

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.

Step 5. Add your exclusion for that week to your exclusion for any other short weeks. Fill in the total on line 2c.

Disability payments are made for part of a week 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.

Line 5 Generally, the most a person can exclude is \$5,200. This exclusion goes down, dollar for dollar, by any amount over \$15,000 on line 5a.

Generally, no exclusion is left if line 5a is –

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

Physician's Statement If you did not check the box on line 9 of Schedule 2440W, you must have your physician complete a statement of permanent and total disability. You can use the statement on Schedule 2440W for this purpose. However, if you are filing federal Schedule R and your physician completed a Physician's Statement for use with that form, you may submit a copy of that statement instead of completing the physician's statement on Schedule 2440W. If both spouses take the exclusion, each must file a statement. 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 after 1976, the physician's statement must show that you were permanently and totally disabled when you retired.

If the Department of Veterans Affairs (VA) certifies that you are permanently and totally disabled, you can file VA Form 21-0172 instead of the physician's statement. VA Form 21-0172 must be signed by a person authorized by the VA to do so. You can get VA Form 21-0172 from your local VA regional office.

Applicable Laws and Rules

This document provides statements or interpretations of ch. 71, Wis. Stats., enacted as of October 6, 2021. Laws enacted and in effect after this date, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to this date that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.