

**Statement in Support of Exclusion for Amounts Received
Under Accident and Health Insurance Plan
for Personal Injuries or Sickness**

Year _____

Employee: _____

Soc. Sec. No. _____

Employer: _____

I.D. No. _____

Periods of Sickness

From	To	Number Paid Days	Minus	Initial Period	Allowable Sick Days	x	Daily Rate of Pay	=	Sick Pay
			-			x		=	
			-			x		=	
			-			x		=	
			-			x		=	
			-			x		=	
			-			x		=	
			-			x		=	
			-			x		=	
			-			x		=	
Total Sick Pay For Year									

This is to certify that the payment(s) set forth above meet all three criteria in N.J.A.C. 18:35-2.3

Authorized Signature of Employer

Title

Date

Gross Income Tax
Employee Accident or Health Insurance Exclusion
N.J.A.C. 18:35-2.3

18:35-2.3 Employee accident or health insurance exclusion from taxable gross income

(a) Amounts received by an employee through an accident or health insurance plan for personal injuries or sickness are not subject to tax under the New Jersey Gross Income Tax Act.

(b) Amounts received by an employee on account of personal injury or sickness qualify for exclusion from taxable gross income when received under the provisions of an employee accident or health insurance plan which satisfies the following requirements:

1. The payments must be compensation for wage loss which results from absence due to injury or sickness of the employee; and
2. The payments must have a requisite certainty under an enforceable contractual obligation under the plan (see (e) below); and
3. The payments must not relate to sick leave wage continuation, the taking of which is largely discretionary and the payments are made regardless of the reason for absence from work.

(c) The exclusion from taxable gross income applies to payments to employees under a health or accident insurance plan regardless of whether insurance coverage is with a commercial insurance company to which premiums are paid by both employees and employer or solely by the employer; or whether insurance coverage is provided by an employer's self-insured plan for which no insurance premiums are paid by the employees.

(d) The exclusion from taxable gross income applies to payments required to be made to employees under the State mandated temporary disability benefit plan pursuant to the New Jersey Temporary Disability Law (N.J.S.A. 43:21-25, et seq.). Payments which are excludable from taxable gross income include temporary disability benefit payments required to be made under the State Plan which is administered by the Bureau of State Plan Disability Benefits under the New Jersey Disability Law. Exclusion from taxable gross income also includes payments required to be made to employees under a company's private plan established pursuant to New Jersey law in lieu of the State Plan described in the preceding sentence and which has been approved by the Bureau of Private Plan Disability Benefits, Division of Unemployment Insurance and Disability Insurance.

(e) Where payment to employees under the health or accident insurance plan is largely discretionary with the employer, such as during the initial period (for example, first seven days), the exclusion from taxable gross income does not apply. Such payments to the employee are subject to tax as wages and salaries. In order for a wage loss payment made under an accident or health insurance plan to be excludable from taxable gross income, the payment to the employee must have a requisite certainty under an enforceable contractual obligation.

(f) Withholding of the gross income tax shall be required on all payments of wages and salaries made to an employee by an employer. The withholding of the tax is required even though such payments meet all the conditions for exclusion from taxable gross income as made through an accident or health insurance plan for personal injuries or sickness under this section. The only exceptions for the withholding of tax shall be for the following:

1. Temporary disability benefit payments required to be made under the State Plan which is administered by the Bureau of State Plan Disability Benefits under the New Jersey Disability Law;
2. Temporary disability benefit payments required to be made to employees under a company's private plan established pursuant to New Jersey law in lieu of the State Plan described in (f)1 above and which has been approved by the Bureau of Private Plan Disability Benefits, Division of Unemployment Insurance and Disability Insurance; and
3. Payments made to employees for personal injuries or sickness under a health or accident insurance policy by a commercial insurance company.

(g) All taxpayers will be required to file with their annual New Jersey Gross Income Tax Return a claim form furnished by the Director for the exclusion of any amounts received by them as an employee through an accident or health insurance plan for personal injuries or sickness which meet all the conditions for exclusion from taxable gross income under (f) 1, 2 and 3 above.

Examples:

i. An employee of Company X is allowed 12 vacation days and 15 sick days for the calendar year. The employee uses 12 vacation days and 10 sick days in the calendar year for which he or she receives his or her regular wage payment, regardless of the cause for his or her absence. The amounts received by the employee in the calendar year for the 12 vacation days and 10 sick days are subject to tax as wage and salary income to the employee and the employer must also withhold Gross Income Tax on such payments.

ii. Company Y has a self-insured disability plan for its employees who are absent from work because of accident or sickness. The plan is fully funded by the employer company and the employees make no contribution to the plan. Payment for the full amount of wages is made to disabled employees absent from work, on the eighth calendar day. Payment for the initial seven days to the covered employee is discretionary with the company employer under the plan. The amount received by the absent employee because of his or her disability is excludable from taxable gross income as health or accident insurance after the initial seven days of absence but is subject to withholding tax. Any amount received by the employee as payment for the seven initial days is subject to tax as wage and salary income to the employee and is also subject to withholding tax.

iii. Employee C receives a payment from the New Jersey Disability Benefit Fund during an absence from work because of temporary disability resulting from illness. Both the employee and employer have contributed to the disability benefit fund. The total amount received by the employee from the New Jersey Disability Benefit Fund is excludable from taxable gross income as a payment for health or accident insurance and is not subject to withholding tax.

iv. Employee D is absent from work because of illness and receives from the X Insurance Company the full amount of his or her wages during the period of his or her absence from work. The payment was made from a health or accident insurance policy to which only the employer has contributed. The amounts received by the employee are excludable from taxable gross income as health or accident insurance and are not subject to withholding tax.