

May 26, 1982

SUBJECT: INSURANCE

WITHDRAWN
(EFF. 12-4-03)

DATED: MAY 26, 1982

CIRCULAR LETTER NO. 12 (1982)

TO: ALL INSURERS AND SELF-INSURERS WRITING AUTOMOBILE INSURANCE IN NEW YORK STATE

SUBJECT: TAXABILITY OF NEW YORK STATE DISABILITY BENEFITS AND THE EFFECT ON THE PAYMENT OF NO-FAULT

Beginning in 1981 employers were required to report as income, to the Internal Revenue Service, N.Y.S. Disability benefits paid to employees. In 1982 these benefits also became subject to Social Security (F.I.C.A.) withholding taxes. However, the benefits paid may not always be taxable.

Disability benefits which an employee is not required to pay for through payroll deductions are subject to F.I.C.A. and income tax withholding. However, if the claimant's adjusted family income is less than \$ 20,200 the withheld income taxes will be refunded in whole or in part, in accordance with a formula contained in the Internal Revenue Code. F.I.C.A. taxes are payable regardless of the claimant's level of income.

No-Fault insurers may continue to assume that NYS Disability benefits are not taxable until proof to the contrary is received from the applicant. However, when paying the lesser benefits insurers shall advise applicants that they may be entitled to additional loss of earnings benefits if N.Y.S. disability benefits received as a result of the accident were subject to withholding for F.I.C.A. and/or income tax. Insurers may accept as proof: A pay stub which shows that the employee is not paying a Disability premium; a check stub for Disability Benefits which shows taxes withheld; a W-2 form which reports Disability Benefits as income; or any other proof acceptable to the insurer.

An example of the proper utilization of the Disability offset under both situations (taxable and non-taxable) follows:

DISABILITY BENEFITS NOT TAXABLE:

Basic Economic Loss -

(For Lost Wages - Monthly Maximum)	\$ 1250
Less 20% Offset	250
	\$ 1000

Less Disability Benefits

(\$ 95 Per Week Maximum X 4 Weeks)*	\$ 380
First Party Benefits Due	\$ 620

DISABILITY BENEFITS ARE TAXABLE:

Basic Economic Loss -	
(For Lost Wages - Monthly Maximum)	\$ 1250
Less Disability Benefits	
(\$ 95 Per Week X 4 Weeks)*	380
	\$ 870
Less 20% Offset -	\$ 174
First Party Benefits Due-	\$ 696

*Estimate. The maximum monthly Disability Benefits should be computed at \$ 19 per day times (X) the number of working days in the period, subject to a maximum of \$ 95 per week.

Thus, at a maximum, \$ 76 in additional benefits should be paid if the Disability Benefits are taxable.

Very truly yours,

[SIGNATURE]

ALBERT B. LEWIS

Superintendent of Insurance

ABL/bmb