



George Deukmejian, Governor

**TO:** ALL PERSONNEL OFFICERS AND  
LABOR RELATIONS OFFICERS

**REFERENCE CODE :** 85-10-1  
**EFFECTIVE DATE :** January 1, 1982  
**EXPIRATION DATE:** Indefinite  
**DATE OF ISSUE :** July 1, 1985

**SUBJECT:** Social Security withholding from  
Industrial Disability Leave  
Payments

This memorandum is to provide guidance for the Social Security Administration's recent clarification of Public Law 97-123 with respect to Industrial Disability Leave payments.

Background:

Public Law 97-123, effective January 1, 1982, revised Section 209 (b)(2) of the Social Security Act to provide that payments made on account of sickness or accident disability, with some limited exceptions, are wages for social security purposes for the first six consecutive calendar months of sickness or disability. Payments made under worker's compensation laws continued to be "excluded wages" - not subject to social security.

Sick Leave, Nonindustrial Disability Insurance (NDI), Industrial Disability Leave (IDL), and Worker's Compensation Temporary Disability Leave Supplementation (WCTD) were determined to be subject to the provisions of Public Law 97-123.

New Ruling:

The Social Security Administration has recently provided clarification that IDL payments are made in lieu of workers' compensation and are to be "excluded wages", not subject to OASDI taxes. This clarification will be applied retroactively to January 1, 1982.

The following are examples of computations of benefit payments for a hypothetical employee who becomes industrially disabled before and after the clarification of Public Law 97-123.

Assumptions

Gross monthly salary = \$1500.00  
Married with two children  
Two exemptions for tax purposes  
PERS Miscellaneous First Tier  
Member covered under Social Security (OASDI)

Computation prior to the clarification of PL 97-123

First 22 days of disability

Monthly salary rate	\$1500.00
Less Adjustments	
Federal Income Tax	-150.58
State Income Tax	- 14.17
GROSS IDL BENEFIT	\$1335.25
OASDI	94.14*
PERS	- 49.35
Health Insurance	- 13.50
Credit Union Loan	-203.30
Union Dues	<u>- 13.50</u>
NET IDL BENEFIT	\$961.46

Computation after the clarification of PL 97-123

First 22 days of disability

Monthly salary rate	\$1500.00
Less Adjustments	
Federal Income Tax	-150.58
State Income Tax	- 14.17
OASDI	-105.75
GROSS IDL BENEFIT	\$1229.50
PERS	- 49.35
Health Insurance	- 13.50
Credit Union Loan	-203.30
Union Dues	<u>- 13.50</u>
NET IDL BENEFIT	\$949.85

Before clarification of PL 97-123

For disability extended beyond 22 working days at two-thirds of full pay

Monthly salary rate	\$1500.00
Less 1/3 adjustment	<u>-500.00</u>
GROSS IDL BENEFIT	\$1000.00
OASDI	- 70.50*
PERS	- 49.35
Health Insurance	- 13.50
Credit Union Loan	-203.30
Union Dues	<u>- 13.50</u>
NET 2/3 IDL BENEFIT	\$649.85

After clarification of PL 97-123

For disability extended beyond 22 working days at two-thirds of full pay

Monthly salary rate	\$1500.00
Less 1/3 adjustment	<u>-500.00</u>
GROSS IDL BENEFIT	\$1000.00
PERS	- 49.35
Health Insurance	- 13.50
Credit Union Loan	-203.30
Union Dues	<u>- 13.50</u>
NET 2/3 IDL BENEFIT	\$ 720.35

\*OASDI is based on adjusted IDL Gross

Effective July 1, 1985, the State Controller's Office stopped withholding OASDI deductions from all IDL payments. A Payroll Letter regarding refunds to eligible employees who received disability payments January 1, 1982 and later will be provided by the State Controller's Office as soon as the information is available.

NDI, Sick Leave, and WCTD with supplementation will continue to be wages subject to OASDI deductions. This ruling affects only the IDL disability payments.

Please direct any questions concerning this memorandum to Jerri Martin at (916) 324-0439 or ATSS 454-0439.



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