

MCENERNEY, BRADY & COMPANY, LLC

NY - LINE OF DUTY INJURY

When a police officer is injured in the line of duty, that police officer will continue to receive their wages which is considered workers compensation or in the “nature” of workers compensation which are is subject to tax. The following are the benefits the police officer receives:

- I. Federal income tax is not charged on wages received during the time the police officer is out of work.
- II. Wages received during the time out due to line of duty injury is also not subject to New York State tax.
- III. Social Security and Medicare taxes also do not apply during this period.

If the employer continues to take out the above federal and New York State taxes, the police officer must compute the amount of wages that is not subject to those taxes. Enclosed are the necessary attachments which should be included with police officer’s Form 1040 and the New York State IT-201.

To obtain a refund on the Social Security and Medicare taxes, IRS Form 843 must be completed and submitted to the IRS.

Finally, a taxpayer who was injured in any of the last three years, may file an amended 1040 (Form 1040X) and Form 843 with the IRS and Form IT-201X with the State for up to three years, in this case 2007, 2006 and 2005.

MCENERNEY, BRADY & CO., LLC

LINE OF DUTY INJURY

CALCULATION OF NON-TAXABLE WAGES

Should a police officer receive an injury in the performance of their duties, it is considered a "Line of Duty" injury. During the period of the injury, the total amount of wages received by the injured P.O. from their employer is not subject to income tax. Please refer to Section 104(A)(1) of the Internal Revenue Code and Dyer v. Commissioner, 71 TC 560.

The computation is as follows:

Formula

- 1) No. of days injured during the year
- 2) No. of days scheduled to work during the year
- 3) Taxable wages per W-2 box #1, net of any overtime wages

Example

Days injured	<u>18</u>	=	10%
Days scheduled	180		

Wages \$120,000 x 10% = \$12,000

In this example \$12,000 of wages would be considered non-taxable to the P.O. This amount is recorded on Line 21 of Page #1 of the Form 1040 and the IT-201 on Page 2, Line 31 as a negative (\$12,000). Also please be advised that you may file amended tax returned for up to three years. Therefore, if you were injured at any time during 2007, 2006 or 2005 you should consider filing Form 1040X (amended 1040) and with NYS.

You should attach a letter on the Department's letterhead stating days out due to the Line of Duty injury or the non-taxable portion of your wages. Also the letter should state that the Line of Duty wages are included in the W-2. This form also must be attached to your Form NY-IT-201, otherwise the State will usually not process your return.

To recover social security and medicare taxes the police officer should complete IRS Form 843.

Should you have any questions please do not hesitate to contact me.

McEnerney, Brady & Co., LLC
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Prepared by:

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FORM 1040

Name: _____ SS# _____ Tax Year _____

Formula to compute non-taxable portions of salary due to line of duty injury in the performance of their duty.

$$\begin{array}{r} \text{\# of days out due to line of duty injury} \quad \underline{\hspace{2cm}} \\ \div \\ \text{\# of days scheduled to work during year} \quad \underline{\hspace{2cm}} \end{array} = \underline{\hspace{2cm}}\%$$

$$\begin{array}{r} \text{Total wages received during 200} \underline{\hspace{2cm}} \quad \underline{\hspace{2cm}} \\ \times \\ \text{Percentage that is considered line of duty} \quad \underline{\hspace{2cm}} \\ = \end{array}$$

Non-taxable portion of wages received for 200____. _____
Page 1, Line #21

See Section 104(A)(1) of the Internal Revenue Code and Dyer v. Commissioner, 71 TC 560.

FORM IT-201

Name: _____ SS# _____ Tax Year _____

Formula to compute non-taxable portions of salary due to line of duty injury in the performance of their duty.

$$\begin{array}{r} \text{\# of days out due to line of duty injury} \quad \underline{\hspace{2cm}} \\ \div \\ \text{\# of days scheduled to work during year} \quad \underline{\hspace{2cm}} \end{array} = \underline{\hspace{2cm}}\%$$

$$\begin{array}{r} \text{Total wages received during 200} \underline{\hspace{1cm}} \quad \underline{\hspace{2cm}} \\ \times \\ \text{Percentage that is considered line of duty} \quad \underline{\hspace{2cm}} \\ = \end{array}$$

Non-taxable portion of wages received for 200____. _____
Page 2, Line #31

See Section 104(A)(1) of the Internal Revenue Code and Dyer v. Commissioner, 71 TC 560.