

State: Texas **Filing Company:** National Council on Compensation Insurance, Inc.
TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
Product Name: B-1448 - Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions
Project Name/Number: /

Filing at a Glance

Company: National Council on Compensation Insurance, Inc.
Product Name: B-1448 - Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions
State: Texas
TOI: 16.0 Workers Compensation
Sub-TOI: 16.0004 Standard WC
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Author(s): Lesley O'Brien, Nancy Mattei, Tyler Santos, Andrew Scott, Mario Morales
Reviewer(s): David Boon (primary), David Trautman, Connie Adams
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Revision - S692689 (B-1444)

State: Texas **Filing Company:** National Council on Compensation Insurance, Inc.
TOI/Sub-TOI: 16.0 Workers Compensation/16.0004 Standard WC
Product Name: B-1448 - Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions
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General Information

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Created By: Nancy Mattei Submitted By: Nancy Mattei
Corresponding Filing Tracking Number:
State TOI: Workers Compensation State Sub-TOI: Workers Compensation

Filing Description:

This item clarifies and enhances NCCI's Basic Manual for Workers Compensation and Employers Liability Insurance (Basic Manual) rules related to payroll inclusions and payroll exclusions.

Company and Contact

Filing Contact Information

Terri Robinson, Senior State Relations terri_robinson@ncci.com
Executive
2400 Crestwood Road 501-333-2835 [Phone]
Suite 207 561-893-5655 [FAX]
North Little Rock, AR 72116

Filing Company Information

National Council on Compensation Insurance, Inc. CoCode: State of Domicile: Florida
901 Peninsula Corporate Circle Group Code: Company Type:
Boca Raton, FL 33487 Group Name: State ID Number:
(561) 893-3186 ext. [Phone] FEIN Number: 65-0439698

State: Texas **Filing Company:** National Council on Compensation Insurance, Inc.
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Filing Fees

State Fees

Fee Required? No

Retaliatory? No

Fee Explanation:

State Specific

- [PII] Does this filing contain any personally identifiable information (PII)? (See SERFF General Instructions for the definition and examples of PII.) Answer either YES or NO:: No
- [Associated filing] Provide the TDI file number or SERFF tracking number for all associated filings:: N/A
- [Deemer date] Do you waive the deemer for form, endorsement, and certificate of insurance filings under 28 TAC 5.9325? Answer either YES or NO:: Yes
- Do you waive the limits on requests for information for rate/rule filings under 28 TAC 5.9336? Answer either YES or NO:: Yes
- [Replacement number] Provide the TDI file number or SERFF tracking number of the previously approved forms and endorsements or accepted rates, rules, or rate/rules that you are replacing:: S692689
- [Reference/adopt] Provide the TDI file number or SERFF tracking number that contains approved forms and endorsements or accepted rates, rules, or rate/rules that you are referencing/adopting.: N/A
- [Interline] State if this is an interline filing and list all lines of insurance the endorsement or rate/rules applies to.: N/A
- [Dual] For dual filings (monoline and multi-peril) state if this is a new program. If not, provide the TDI file number or SERFF tracking number for either the previous dual filing, or the previous monoline and multi-peril filings approved for this program:: N/A
- [Policy form] What policy form do these endorsements and forms go with? List the TDI file number or SERFF tracking number where the policy form was approved or referenced:: N/A
- [RPG] Will this filing be used for a Risk Purchasing Group? Answer either YES or NO. If yes, provide the name:: No

SERFF Tracking #:

NCCI-133617166

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B-1448

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Texas

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National Council on Compensation Insurance, Inc.

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B-1448 - Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions

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/

Rate Information

Rate data applies to filing.

Filing Method:

Rate Change Type:

Neutral

Overall Percentage of Last Rate Revision:

0.000%

Effective Date of Last Rate Revision:

Filing Method of Last Filing:

SERFF Tracking Number of Last Filing:

Company Rate Information

Company Name:	Overall % Indicated Change:	Overall % Rate Impact:	Written Premium Change for this Program:	Number of Policy Holders Affected for this Program:	Written Premium for this Program:	Maximum % Change (where req'd):	Minimum % Change (where req'd):
National Council on Compensation Insurance, Inc.	0.000%	0.000%	\$0	0	\$0	0.000%	0.000%

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Rate/Rule Schedule

Item No.	Schedule Item Status	Exhibit Name	Rule # or Page #	Rate Action	Previous State Filing Number	Attachments
1		Exhibit 1	BM Rules for including wages and salaries in payroll	Replacement	S692689	Exhibit 1.pdf
2		Exhibit 2	BM Rules for including employee-authorized reductions from gross pay in payroll	Replacement	S692689	Exhibit 2.pdf
3		Exhibit 4	BM Rules for excluding from the audit reimbursed expenses and flat expense allowances	Replacement	S692689	Exhibit 4.pdf
4		Exhibit 5	BM Rules for excluding from payroll expense reimbursement	Withdrawn	S692689	Exhibit 5.pdf
5		Exhibit 7	BM New payroll inclusion rule	New		Exhibit 7.pdf
6		Exhibit 8	BM New payroll exclusion rules	New		Exhibit 8.pdf
7		Exhibit 9	BM Rules for including nonverified expense reimbursements and flat expense allowances in payroll	Replacement	S692689	Exhibit 9 - TX.pdf

Item B-1448—Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions

Exhibit 1

Basic Manual—Effective 2021

(Applies in: AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL,
IN, KS, KY, LA, MD, ME, MO, MS, NE, NH,
NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

Rules for including wages and salaries in payroll

Rule ID: BM-PAYI-R5CC5

Effective Date: ~~November 1, 2021~~ January 1, 2024

Include current wages or salaries, and retroactive wages or salaries, paid during the current policy period in payroll.

References

Refer to

- [Rules for including retroactive wages or salaries paid to a current employee in payroll, and](#)
- [Rules for excluding from payroll retroactive wages or salaries paid to a retired or terminated employee.](#)

Item B-1448—Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions

Exhibit 2

Basic Manual—Effective 2021

(Applies in: AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

Rules for including employee-authorized reductions from gross pay in payroll

Rule ID: BM-PAYI-R6090

Effective Date: ~~November 1, 2021~~ January 1, 2024

Include payments for employee-authorized reductions from gross pay in payroll.

Employee-authorized reductions from gross pay

Examples of payments Payments for employee-authorized reductions from gross pay include are as follows:

- salary reductions
- health savings accounts (HSAs)
- flexible spending accounts (FSAs)
- employee savings plans
- retirement plans, ~~or~~ and
- cafeteria plans, including IRC 125 plans.

References

Refer to

- [Rules for including employee-authorized reductions for purchasing stock options or stock purchase plans in payroll](#)
- [Rules for including employee-authorized reductions to fund deferred compensation plans in payroll, and](#)
- [NCCI's *Basic Manual User's Guide* for an example of cafeteria plans.](#)

Item B-1448—Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions

Exhibit 4

Basic Manual—Effective 2021

(Applies in: AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN,
KS, KY, LA, MD, ME, MO, MS, MT, NE, NH,
NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

Rules for excluding from the audit payroll verified expense reimbursements reimbursed expenses and flat expense allowances

Rule ID: BM-PAYE-RB65F

Effective Date: ~~November 1, 2021~~ January 1, 2024

Exclude from the audit payroll ~~reimbursement expenses~~ expense reimbursements and flat expense allowances paid to employees only when all of these following conditions are met:

- The employer's verifiable records confirm that the expenses or allowances are incurred as a valid for the business expense of the employer.
- The amount of each employee's expense or allowance is shown separately in the employer records.
- The amount of the expense or allowance approximates the actual expense incurred by the employee in the conduct of their work.
- The expense reimbursements and/or flat expense allowances paid to the employee must be in addition to, not in lieu of, the wages earned by the employee.

~~Maximum expense allowance for nonreceipted expenses~~

~~Exclude from payroll the maximum expense allowance when the employer does not have verifiable expense receipts for an employee who was away from home overnight on business for the employer.~~

References

~~Refer to [Rules for including in payroll expense reimbursements](#) for information about the reasonable expense allowance for nonreceipted expenses.~~

Item B-1448—Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions

Exhibit 5

Basic Manual—Effective 2021

(Applies in: AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN,
KS, KY, LA, MD, ME, MO, MS, MT, NE, NH,
NM, NV, OK, RI, SC, SD, TN, TX, UT, VA, VT, WV)

~~Rules for excluding from payroll expense reimbursements~~

~~Rule ID: BM-PAYE-R168D~~

~~Effective Date: November 1, 2021~~

~~Exclude from payroll expense reimbursements to employees when the employer records confirm that the expense was incurred as a valid business expense.~~

Item B-1448—Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions

Exhibit 7**Basic Manual—Effective 2021**

(Applies in: AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN,
KS, KY, LA, MD, ME, MO, MS, MT, NE, NH,
NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

Rules for including employee-authorized reductions for purchasing stock options or stock purchase plans in payroll**Rule ID: BM-PAYI-EA0E4***Effective Date: January 1, 2024*

Include employee-authorized reductions from an employee's gross pay for purchasing stock options or qualified or nonqualified employee stock purchase plans (ESPP) in payroll. The salary reduction amounts are included in payroll for the policy year in effect when the salary reduction was made, even when the plan is a portion of a cafeteria plan.

References

Refer to

- [Rules for including employee-authorized reductions from gross pay in payroll](#)
- [Rules for including employee-authorized reductions to fund deferred compensation plans in payroll, and](#)
- [Rules for excluding from payroll employer contributions to stock purchase plans.](#)

Rules for including employer contributions to the cashless exercise of stock options in payroll**Rule ID: BM-PAYI-EA932***Effective Date: January 1, 2024*

Include employer contributions to an employee's cashless exercise of stock options in payroll.

Payment exceptions

Exclude from payroll employer contributions to the exercise of stock options except for employer contributions to an employee's cashless exercise of stock options.

ReferencesRefer to [Rules for excluding from payroll employer contributions to the exercise of stock options.](#)**Rules for including the value of equity-based compensation plans in payroll****Rule ID: BM-PAYI-TCF8E***Effective Date: January 1, 2024*

Include the value of equity-based compensation plans, other than stock options and stock purchase plans, at the time of vesting in payroll. This applies when vesting is on a scheduled or annual basis, such as

- graded vesting
- scheduled cliff vesting
- performance goals vesting, and
- milestone anniversaries vesting.

Equity-based compensation plans other than stock options and stock purchase plans

Equity-based compensation plans, other than stock options and stock purchase plans, include

- stock transfers
- stock warrants
- restricted stock
- restricted stock units

Item B-1448—Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions

Exhibit 7 (Cont'd)**Basic Manual—Effective 2021**

(Applies in: AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN,
KS, KY, LA, MD, ME, MO, MS, MT, NE, NH,
NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

- phantom stock plans, and
- stock appreciation rights.

ReferencesRefer to

- [Rules for including employee-authorized reductions for purchasing stock options or stock purchase plans in payroll](#)
- [Rules for including employer contributions to the cashless exercise of stock options in payroll](#)
- [Rules for excluding from payroll employer contributions to stock purchase plans](#)
- [Rules for excluding from payroll employer contributions to the exercise of stock options, and](#)
- [Rules for excluding from payroll the market value of equity-based compensation plans.](#)

Rules for including deferred compensation payments to current employees in payroll**Rule ID: BM-PAYI-DA240***Effective Date: January 1, 2024*

Include deferred compensation distribution payments made to current employees from an employer's contributions to previously deferred wages in payroll. This applies to amounts paid during the policy period.

References

Refer to [Rules for excluding from payroll deferred compensation payments to retired or terminated employees.](#)

Rules for including employee-authorized reductions to fund deferred compensation plans in payroll**Rule ID: BM-PAYI-EA9A2***Effective Date: January 1, 2024*

Include the amount by which an employee's salary is reduced from gross pay to fund an employee-authorized deferred compensation plan in payroll. The salary reduction amounts are included in payroll for the policy year in effect when the salary reduction was made, even when the plan is a portion of a cafeteria plan.

Employee-authorized deferred compensation plans

Employee-authorized deferred compensation plans include

- pension plans
- equity-based compensation plans, and
- other deferral plans.

ReferencesRefer to

- [Rules for including employee-authorized reductions from gross pay in payroll](#)
- [Rules for including employee-authorized reductions for purchasing stock options or stock purchase plans in payroll, and](#)
- [Rules for excluding from payroll employer contributions to stock purchase plans.](#)

Item B-1448—Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions

Exhibit 7 (Cont'd)
Basic Manual—Effective 2021
(Applies in: AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN,
KS, KY, LA, MD, ME, MO, MS, MT, NE, NH,
NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

Rules for including retroactive wages or salaries paid to a current employee in payroll

Rule ID: BM-PAYI-RFD81

Effective Date: January 1, 2024

Include in payroll retroactive wages or salaries paid to a current employee when

- the payment is within the three-year audit period of the policy, and
- the employee was actively employed by the employer
 - at the time wages or salaries were paid, or
 - during any portion of the current policy period.

References

Refer to [Rules for excluding from payroll retroactive wages or salaries paid to a retired or terminated employee.](#)

Item B-1448—Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions

Exhibit 8

Basic Manual—Effective 2021

(Applies in: AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN,
KS, KY, LA, MD, ME, MO, MS, MT, NE, NH,
NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

Rules for excluding from payroll deferred compensation payments to retired or terminated employees

Rule ID: BM-PAYE-DA049

Effective Date: January 1, 2024

Exclude from payroll deferred compensation payments to retired or terminated employees during the current policy period, when

- the employee is not employed at the time of the distribution, and
- records are maintained to separate these payments.

References

Refer to [Rules for including deferred compensation payments to current employees in payroll.](#)

Rules for excluding from payroll employer contributions to stock purchase plans

Rule ID: BM-PAYE-EAC0A

Effective Date: January 1, 2024

Exclude from payroll employer contributions to qualified or nonqualified employee stock purchase plans.

References

Refer to [Rules for including employee-authorized reductions for purchasing stock options or stock purchase plans in payroll.](#)

Rules for excluding from payroll employer contributions to the exercise of stock options

Rule ID: BM-PAYE-EA604

Effective Date: January 1, 2024

Exclude from payroll employer contributions to the exercise of stock options except for employer contributions to an employee's cashless exercise of stock options.

Payment exceptions

Include employer contributions to the cashless exercise of stock options in payroll.

References

Refer to [Rules for including employer contributions to the cashless exercise of stock options in payroll.](#)

Rules for excluding from payroll employer contributions to deferred compensation plans

Rule ID: BM-PAYE-EEBCD

Effective Date: January 1, 2024

Exclude from payroll employer contributions to deferred compensation plans.

Rules for excluding from payroll the difference earned from purchasing discounted stocks

Rule ID: BM-PAYE-TA0CB

Effective Date: January 1, 2024

Exclude from payroll the difference between the market price of stock and any discounted price paid by the employee to purchase the stock.

Item B-1448—Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions

Exhibit 8 (Cont'd)

Basic Manual—Effective 2021

(Applies in: AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN,
KS, KY, LA, MD, ME, MO, MS, MT, NE, NH,
NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV)

Rules for excluding from payroll the market value of equity-based compensation plans

Rule ID: BM-PAYE-TA091

Effective Date: January 1, 2024

Exclude from payroll the market value of equity-based compensation plans. This applies when accelerated cliff vesting is triggered by

- an Initial Public Offering (IPO) of stock, or
- a change in majority ownership where the owner or owners before the change own less than one-half interest after the change.

References

Refer to [Rules for including the value of equity-based compensation plans in payroll.](#)

Rules for excluding from payroll retroactive wages or salaries paid to a retired or terminated employee

Rule ID: BM-PAYE-RA72E

Effective Date: January 1, 2024

Exclude from payroll retroactive wages or salaries paid to a retired or terminated employee when

- the payment is within the three-year audit period of the policy
- the employee was retired or terminated at the time wages or salaries were paid, and
- the employer maintains records that separate such payments.

References

Refer to [Rules for including retroactive wages or salaries paid to a current employee in payroll.](#)

Item B-1448—Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions

**Exhibit 9
Basic Manual—Effective 2021—Texas****Rules for including nonverified expense reimbursements and flat expense allowances in payroll****Rule ID: BM-PAYI-RC30B***Effective Date: ~~April 1, 2022~~ January 1, 2024*

Include expense reimbursements and flat expense allowances paid to employees in payroll when if the employer's verifiable records do not verify confirm that the employee expense or allowance was incurred as a valid business expense.

Rule for reasonable expense allowance exclusions from payroll

~~Exclude a reasonable expense allowance up to the IRS allowable per diem amount from payroll if it can be verified that the employee was away from home overnight on the business of the employer, but the employer did not maintain verifiable receipts for incurred expenses. Include the remaining nonverifiable expenses as payroll.~~

References

Refer to [Rules for excluding from payroll a maximum daily expense allowance for nonverified expenses incurred on overnight business expense reimbursements](#) for information about contractual allowable travel expenses and expense reimbursement exclusions.

Rules for excluding from payroll a maximum daily expense allowance for nonverified expenses incurred on overnight business**Rule ID: BM-PAYE-AAC0F***Effective Date: January 1, 2024*

Exclude from payroll a maximum expense allowance of up to the IRS allowable amount per day when

- it can be verified that the employee was away from home overnight on business for the employer
- the employer did not maintain verifiable records for the employee's daily incurred business expenses, and
- the daily expense allowance paid to the employee is in addition to, not in lieu of, the wages earned by the employee.

Include the remaining nonverified daily business expenses in excess of the IRS allowable amount per day in payroll.

References

Refer to [Rules for excluding from payroll allowable travel expenses](#) for information about contractual allowable travel expenses.

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Company Tracking #:

B-1448

State: Texas
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Product Name: B-1448 - Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions
Project Name/Number: /

Filing Company: National Council on Compensation Insurance, Inc.

Supporting Document Schedules

Bypassed - Item:	Does this filing contain confidential information?
Bypass Reason:	N/A
Attachment(s):	
Item Status:	
Status Date:	

Bypassed - Item:	Exhibit A
Bypass Reason:	N/A
Attachment(s):	
Item Status:	
Status Date:	

Bypassed - Item:	Exhibit C
Bypass Reason:	N/A
Attachment(s):	
Item Status:	
Status Date:	

Satisfied - Item:	Filing Memorandum (Rates/Rules)
Comments:	
Attachment(s):	B-1448_Filing Memo 3.28.pdf
Item Status:	
Status Date:	

Satisfied - Item:	Side by Side
Comments:	
Attachment(s):	B-1448 TX_Side_by_side.pdf
Item Status:	
Status Date:	

Filing Memorandum

Item B-1448—Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions

Purpose

This item clarifies and enhances NCCI's *Basic Manual for Workers Compensation and Employers Liability Insurance (Basic Manual)* rules related to payroll inclusions and payroll exclusions.

Background

Compensation Plans

Employers are increasingly offering additional benefits to employees as part of their compensation plans. Examples of the compensation packages and programs offered include deferred wage agreements, restricted stock units, stock purchase plans, stock options, and other equity-based compensation plans. Carriers and premium audit groups have expressed concerns about the difficulty in determining payroll for employees who elect these benefits.

NCCI completed research and gathered valuable stakeholder feedback on treating payroll for employee-elected salary reductions to fund various compensation plans. Based on this research, additional rules are needed in the *Basic Manual* related to payroll inclusions and payroll exclusions. These additional rules will clarify how to treat payroll for these unique compensation plans and support consistent and uniform application of payroll.

Expense Allowances

A review was also completed to address concerns received from carriers related to expense allowances. In 2016, NCCI filed Item B-1433—Revisions to Basic Manual Rule 1—Classification Assignment and Rule 2—Premium Basis and Payroll Allocation to increase the maximum amount for expense reimbursements without verifiable receipts from \$30 to \$75 per day. Since the implementation of Item B-1433, NCCI received inquiries and requests for clarification. Based on the inquiries and requests received, NCCI recommends revisions to the *Basic Manual* rules related to payroll inclusions and payroll exclusions to clarify that:

- the employer's expense receipts must be verifiable, and
- allowable expenses must be paid in addition to, not in lieu of, wages earned by the employee, to exclude such expenses from payroll.

Additionally, all the rules related to the inclusion or exclusion of expense allowances were revised to ensure clarity and consistency between the rules.

Proposal

The following is a summary of the key changes proposed to NCCI's *Basic Manual* rules related to payroll inclusions and payroll exclusions:

1. Revise the payroll inclusions rules
 - Rules for including wages and salaries in payroll, to remove the reference to retroactive wages or salaries and add references to newly established rules related to retroactive wages or salaries
 - Rules for including employee-authorized reductions from gross pay in payroll, to update the content for consistency with NCCI's writing standards and add related references, and
 - Rules for including expense reimbursements in payroll, to clarify that employer records must be verifiable and update the content for consistency between the rules.
2. Revise the payroll exclusion rule, Rules for excluding from the audit reimbursed expenses and flat expense allowances, to clarify that expense allowances must be paid in addition to, and not in lieu of, wages and update the content for

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Filing Memorandum

Item B-1448—Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions

consistency between the rules.

3. Eliminate the rule, Rules for excluding from payroll expense reimbursements, to reduce redundancy and ensure consistency between the rules.
4. Establish a new rule, Rules for excluding from payroll a maximum daily expense allowance for nonverified expenses incurred on overnight business, for clarity and consistency between the rules.
5. Establish additional payroll inclusion rules to address the treatment of
 - employee-authorized reductions for purchasing stock options or stock purchase plans
 - employer contributions to the cashless exercise of stock options
 - the value of equity-based compensation plans
 - deferred compensation payments to current employees
 - employee-authorized reductions to fund deferred compensation plans, and
 - retroactive wages or salaries paid to a current employee.
6. Establish additional payroll exclusion rules to address the treatment of
 - deferred compensation payments to retired or terminated employees
 - employer contributions to stock purchase plans
 - employer contributions to the exercise of stock options
 - employer contributions to deferred compensation plans
 - the difference earned from purchasing discounted stocks
 - the market value of equity-based compensation plans, and
 - retroactive wages or salaries paid to a retired or terminated employee.

Impact

Payroll Inclusions and Payroll Exclusions

An employer may see an increase or decrease in premium dependent on whether the payroll inclusion or payroll exclusion rules being implemented and/or clarified are different from how the policy is currently being written.

While the overall statewide impact is not available at this time, the updated rules could have offsetting impacts due to the addition of payroll inclusions and payroll exclusions.

Expense Allowances

An employer may see an increase in premium if the employer's payroll increases because of the expense allowance revisions.

Statewide premium impact is not quantifiable but is expected to be negligible.

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Filing Memorandum

Item B-1448—Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions

Exhibit Comments and Implementation Summary

Exhibit	Exhibit Comments	Implementation Summary
Multistate Exhibits		
1	<p>Details the revisions to the rule, Rules for including wages and salaries in payroll (Rule ID: BM-PAYI-R5CC5), in NCCI’s Basic Manual.</p> <ul style="list-style-type: none"> • Applies in AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV • Refer to state exhibit for MT 	<ul style="list-style-type: none"> • In all states where applicable, except Hawaii, this item is to become effective for new and renewal policies with effective dates on and after 12:01 a.m. on January 1, 2024. • In Hawaii, the effective date will be determined upon regulatory approval of the individual carrier's election to adopt this change.
2	<p>Details the revisions to the rule, Rules for including employee-authorized reductions from gross pay in payroll (Rule ID: BM-PAYI-R6090), in NCCI’s Basic Manual.</p> <ul style="list-style-type: none"> • Applies in AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV • Refer to state exhibit for OK 	
3	<p>Details the revisions to the rule, Rules for including expense reimbursements in payroll (Rule ID: BM-PAYI-RC30B), in NCCI’s Basic Manual.</p> <ul style="list-style-type: none"> • Applies in AK, AL, AR, CO, CT, DC, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, UT, VA, VT, WV • Refer to state exhibits for AZ, MS, MT, TX 	
4	<p>Details the revisions to the rule, Rules for excluding from the audit reimbursed expenses and flat expense allowances (Rule ID: BM-PAYE-RB65F), in NCCI’s Basic Manual.</p> <ul style="list-style-type: none"> • Applies in AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV • Refer to state exhibits for AK 	
5	<p>Details the elimination of the rule, Rules for excluding from payroll expense reimbursements (Rule ID: BM-PAYE-R168D), in NCCI’s Basic Manual.</p> <ul style="list-style-type: none"> • Applies in AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, RI, SC, SD, TN, TX, UT, VA, VT, WV • Refer to state exhibits for OR 	

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Filing Memorandum

Item B-1448—Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions

Exhibit	Exhibit Comments	Implementation Summary
6	<p>Details the establishment of the rule, Rules for excluding from payroll a maximum daily expense allowance for nonverified expenses incurred on overnight business (Rule ID: BM-PAYE-AAC0F), in NCCI's Basic Manual.</p> <ul style="list-style-type: none"> • Applies in AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, UT, VA, VT, WV • Refer to state exhibits for MS, TX 	
7	<p>Details the establishment of the following payroll inclusion rules in NCCI's Basic Manual:</p> <ul style="list-style-type: none"> • Rules for including employee-authorized reductions for purchasing stock options or stock purchase plans in payroll (Rule ID: BM-PAYI-EA0E4) • Rules for including employer contributions to the cashless exercise of stock options in payroll (Rule ID: BM-PAYI-EA932) • Rules for including the value of equity-based compensation plans in payroll (Rule ID: BM-PAYI-TCF8E) • Rules for including deferred compensation payments to current employees in payroll (Rule ID: BM-PAYI-DA240) • Rules for including employee-authorized reductions to fund deferred compensation plans in payroll (Rule ID: BM-PAYI-EA9A2) • Rules for including retroactive wages or salaries paid to a current employee in payroll (Rule ID: BM-PAYI-RFD81) • Applies in AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV 	
8	<p>Details the establishment of the following payroll exclusion rules in NCCI's Basic Manual:</p> <ul style="list-style-type: none"> • Rules for excluding from payroll deferred compensation payments to retired or terminated employees (Rule ID: BM-PAYE-DA049) • Rules for excluding from payroll employer contributions to stock purchase plans (Rule ID: BM-PAYE-EAC0A) 	

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Filing Memorandum

Item B-1448—Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions

Exhibit	Exhibit Comments	Implementation Summary
	<ul style="list-style-type: none"> Rules for excluding from payroll employer contributions to the exercise of stock options (Rule ID: BM-PAYE-EA604) Rules for excluding from payroll employer contributions to deferred compensation plans (Rule ID: BM-PAYE-EEBCD) Rules for excluding from payroll the difference earned from purchasing discounted stocks (Rule ID: BM-PAYE-TA0CB) Rules for excluding from payroll the market value of equity-based compensation plans (Rule ID: BM-PAYE-TA091) Rules for excluding from payroll retroactive wages or salaries paid to a retired or terminated employee (Rule ID: BM-PAYE-RA72E) Applies in AK, AL, AR, AZ, CO, CT, DC, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MO, MS, MT, NE, NH, NM, NV, OK, OR, RI, SC, SD, TN, TX, UT, VA, VT, WV 	
	State Exhibits	
9	Details the revisions to the rule, Rules for excluding from the audit reimbursed expenses and flat expense allowances (Rule ID: BM-PAYE-RB65F), in NCCI's Basic Manual for Alaska.	This item is to become effective for new and renewal policies with effective dates on and after 12:01 a.m. on January 1, 2024.
9	Details the revisions to the rule, Rules for including expense reimbursements in payroll (Rule ID: BM-PAYI-RC30B), in NCCI's Basic Manual for Arizona.	
9	Details the revisions to the following rules in NCCI's Basic Manual for Montana: <ul style="list-style-type: none"> Rules for including wages and salaries in payroll (Rule ID: BM-PAYI-R5CC5), and Rules for including expense reimbursements in payroll (Rule ID: BM-PAYI-RC30B). 	
9	Details the revisions and establishment of the following rules in NCCI's Basic Manual for Mississippi: <ul style="list-style-type: none"> Rules for including expense reimbursements in payroll (Rule ID: BM-PAYI-RC30B), and Rules for excluding from payroll a maximum daily expense allowance for nonverified expenses incurred on overnight business (Rule ID: BM-PAYE-AAC0F). 	
9	Details the revisions to the rule, Rules for including	

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Filing Memorandum

Item B-1448—Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions

Exhibit	Exhibit Comments	Implementation Summary
	employee-authorized reductions from gross pay in payroll (Rule ID: BM-PAYI-R6090), in NCCI's <i>Basic Manual</i> for Oklahoma.	
9	Details the elimination of the rule, Rules for excluding from payroll expense reimbursements (Rule ID: BM-PAYE-R168D), in NCCI's <i>Basic Manual</i> for Oregon.	
9	Details the revisions and establishment of the following rules in NCCI's <i>Basic Manual</i> for Texas: <ul style="list-style-type: none"> • Rules for including expense reimbursements in payroll (Rule ID: BM-PAYI-RC30B), and • Rules for excluding from payroll a maximum daily expense allowance for nonverified expenses incurred on overnight business (Rule ID: BM-PAYE-AAC0F). 	

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Comparison of Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions and Item B-1448*

Current	Proposed	Comments
<p>BASIC MANUAL FOR WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE—2021 EDITION</p>	<p>BASIC MANUAL FOR WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE—2021 EDITION</p>	
<p>Rules for including wages and salaries in payroll Rule ID: BM-PAYI-R5CC5 <i>Effective Date: November 1, 2021</i> Include wages or salaries, and retroactive wages or salaries, in payroll.</p>	<p>Rules for including wages and salaries in payroll Rule ID: BM-PAYI-R5CC5 <i>Effective Date: January 1, 2024</i> Include current wages or salaries paid during the current policy period in payroll. References Refer to</p> <ul style="list-style-type: none"> Rules for including retroactive wages or salaries paid to a current employee in payroll, and Rules for excluding from payroll retroactive wages or salaries paid to a retired or terminated employee. 	<p>Revised rule to remove reference to retroactive wages or salaries and added references to newly established rules related to retroactive wages or salaries.</p>
<p>Rules for including employee-authorized reductions from gross pay in payroll Rule ID: BM-PAYI-R6090 <i>Effective Date: November 1, 2021</i> Include payments for employee-authorized reductions from gross pay in payroll. Employee-authorized reductions from gross pay Payments for employee-authorized reductions from gross pay are as follows:</p> <ul style="list-style-type: none"> salary reductions health savings accounts flexible spending accounts employee savings plans retirement plans, or cafeteria plans, including IRC 125 plans. 	<p>Rules for including employee-authorized reductions from gross pay in payroll Rule ID: BM-PAYI-R6090 <i>Effective Date: January 1, 2024</i> Include payments for employee-authorized reductions from gross pay in payroll. Employee-authorized reductions from gross pay Examples of payments for employee-authorized reductions from gross pay include</p> <ul style="list-style-type: none"> salary reductions health savings accounts (HSAs) flexible spending accounts (FSAs) employee savings plans retirement plans, and cafeteria plans, including IRC 125 plans. <p>References Refer to</p> <ul style="list-style-type: none"> Rules for including employee-authorized reductions for purchasing stock options or stock purchase plans in payroll Rules for including employee-authorized reductions to fund deferred compensation plans in payroll, and 	<p>Revised rule for consistency with NCCI’s writing standards and added related references.</p>

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Comparison of Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions and Item B-1448*

Current	Proposed	Comments
<p>Rules for including expense reimbursements in payroll Rule ID: BM-PAYI-RC30B <i>Effective Date: November 1, 2021</i></p> <p>Include expense reimbursements to employees in payroll if the employer's records do not verify that the expense was incurred as a valid business expense.</p> <p>Rule for reasonable expense allowance exclusions from payroll</p> <p>Exclude a reasonable expense allowance up to the IRS allowable per diem amount from payroll if it can be verified that the employee was away from home overnight on the business of the employer, but the employer did not maintain verifiable receipts for incurred expenses. Include the remaining nonverifiable expenses as payroll.</p> <p>References</p> <p>Refer to Rules for excluding from payroll expense reimbursements for information about contractual allowable travel expenses and expense reimbursement exclusions.</p>	<ul style="list-style-type: none"> NCCI's <i>Basic Manual User's Guide</i> for an example of cafeteria plans. <p>Rules for including nonverified expense reimbursements and flat expense allowances in payroll Rule ID: BM-PAYI-RC30B <i>Effective Date: January 1, 2024</i></p> <p>Include expense reimbursements and flat expense allowances paid to employees in payroll when the employer's verifiable records do not confirm that the employee expense or allowance was incurred as a valid business expense.</p> <p>References</p> <p>Refer to Rules for excluding from payroll a maximum daily expense allowance for nonverified expenses incurred on overnight business.</p>	<p>Revised rule to clarify that employer records must be verifiable. Updated the content for consistency between the rules. Also eliminated section, Rule for reasonable expense allowance exclusions from payroll, which is now a separate rule.</p>
<p>Rules for excluding from the audit reimbursed expenses and flat expense allowances Rule ID: BM-PAYE-RB65F <i>Effective Date: November 1, 2021</i></p> <p>Exclude from the audit reimbursement expenses and flat expense allowances paid to employees only when all of the following conditions are met:</p> <ul style="list-style-type: none"> The expenses or allowances are incurred for the business of the employer. The amount of each employee's expense or allowance is shown separately in the employer records. The amount of the expense or allowance approximates the actual expense incurred by the employee in the conduct of their work. <p>Maximum expense allowance for nonreceipted expenses</p> <p>Exclude from payroll the maximum expense allowance when the employer does not have verifiable expense receipts for an employee who was away from home overnight on business for the employer.</p> <p>References</p>	<p>Rules for excluding from payroll verified expense reimbursements and flat expense allowances Rule ID: BM-PAYE-RB65F <i>Effective Date: January 1, 2024</i></p> <p>Exclude from payroll expense reimbursements and flat expense allowances paid to employees only when all of these conditions are met:</p> <ul style="list-style-type: none"> The employer's verifiable records confirm that the expenses or allowances are incurred as a valid business expense. The amount of each employee's expense or allowance is shown separately in the employer records. The amount of the expense or allowance approximates the actual expense incurred by the employee in the conduct of their work. The expense reimbursements and/or flat expense allowances paid to the employee must be in addition to, not in lieu of, the wages earned by the employee. 	<p>Revised rule to clarify that expense allowances must be paid in addition to, and not in lieu of, wages and update the content for consistency between the rules.</p>

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Comparison of Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions and Item B-1448*

Current	Proposed	Comments
<p>Refer to Rules for including in payroll expense reimbursements for information about the reasonable expense allowance for nonreceipted expenses.</p>		
<p>Rules for excluding from payroll expense reimbursements Rule ID: BM-PAYE-R168D <i>Effective Date: November 1, 2021</i> Exclude from payroll expense reimbursements to employees when the employer records confirm that the expense was incurred as a valid business expense.</p>		<p>Eliminated rule.</p>
	<p>Rules for excluding from payroll a maximum daily expense allowance for nonverified expenses incurred on overnight business Rule ID: BM-PAYE-AAC0F <i>Effective Date: January 1, 2024</i> Exclude from payroll a maximum expense allowance of up to the IRS allowable amount per day when</p> <ul style="list-style-type: none"> • it can be verified that the employee was away from home overnight on business for the employer • the employer did not maintain verifiable records for the employee’s daily incurred business expenses, and • the daily expense allowance paid to the employee is in addition to, not in lieu of, the wages earned by the employee. <p>Include the remaining nonverified daily business expenses in excess of the IRS allowable amount per day in payroll.</p> <p>References Refer to Rules for excluding from payroll allowable travel expenses for information about contractual allowable travel expenses.</p>	<p>Established new rule.</p>
	<p>Rules for including employee-authorized reductions for purchasing stock options or stock purchase plans in payroll Rule ID: BM-PAYI-EA0E4 <i>Effective Date: January 1, 2024</i> Include employee-authorized reductions from an employee’s gross pay for purchasing stock options or qualified or nonqualified employee stock purchase plans (ESPP) in payroll. The salary reduction amounts are included in payroll for the policy year in effect when the salary reduction was made, even when the</p>	<p>Established new rule.</p>

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Comparison of Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions and Item B-1448*

Current	Proposed	Comments
	<p>plan is a portion of a cafeteria plan.</p> <p>References</p> <p>Refer to</p> <ul style="list-style-type: none"> • Rules for including employee-authorized reductions from gross pay in payroll • Rules for including employee-authorized reductions to fund deferred compensation plans in payroll, and • Rules for excluding from payroll employer contributions to stock purchase plans. 	
	<p>Rules for including employer contributions to the cashless exercise of stock options in payroll</p> <p>Rule ID: BM-PAYI-EA932</p> <p><i>Effective Date: January 1, 2024</i></p> <p>Include employer contributions to an employee's cashless exercise of stock options in payroll.</p> <p>Payment exceptions</p> <p>Exclude from payroll employer contributions to the exercise of stock options except for employer contributions to an employee's cashless exercise of stock options.</p> <p>References</p> <p>Refer to Rules for excluding from payroll employer contributions to the exercise of stock options.</p>	<p>Established new rule.</p>
	<p>Rules for including the value of equity-based compensation plans in payroll</p> <p>Rule ID: BM-PAYI-TCF8E</p> <p><i>Effective Date: January 1, 2024</i></p> <p>Include the value of equity-based compensation plans, other than stock options and stock purchase plans, at the time of vesting in payroll. This applies when vesting is on a scheduled or annual basis, such as</p> <ul style="list-style-type: none"> • graded vesting • scheduled cliff vesting • performance goals vesting, and • milestone anniversaries vesting. <p>Equity-based compensation plans other than stock options and stock purchase</p>	<p>Established new rule.</p>

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Comparison of Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions and Item B-1448*

Current	Proposed	Comments
	<p>plans</p> <p>Equity-based compensation plans, other than stock options and stock purchase plans, include</p> <ul style="list-style-type: none"> • stock transfers • stock warrants • restricted stock • restricted stock units • phantom stock plans, and • stock appreciation rights. <p>References</p> <p>Refer to</p> <ul style="list-style-type: none"> • Rules for including employee-authorized reductions for purchasing stock options or stock purchase plans in payroll • Rules for including employer contributions to the cashless exercise of stock options in payroll • Rules for excluding from payroll employer contributions to stock purchase plans • Rules for excluding from payroll employer contributions to the exercise of stock options, and • Rules for excluding from payroll the market value of equity-based compensation plans. 	
	<p>Rules for including deferred compensation payments to current employees in payroll</p> <p>Rule ID: BM-PAYI-DA240</p> <p><i>Effective Date: January 1, 2024</i></p> <p>Include deferred compensation distribution payments made to current employees from an employer's contributions to previously deferred wages in payroll. This applies to amounts paid during the policy period.</p> <p>References</p> <p>Refer to Rules for excluding from payroll deferred compensation payments to retired or terminated employees.</p>	<p>Established new rule.</p>
	<p>Rules for including employee-authorized reductions to fund deferred compensation plans in payroll</p>	<p>Established new rule.</p>

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Comparison of Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions and Item B-1448*

Current	Proposed	Comments
	<p>Rule ID: BM-PAYI-EA9A2 <i>Effective Date: January 1, 2024</i></p> <p>Include the amount by which an employee's salary is reduced from gross pay to fund an employee-authorized deferred compensation plan in payroll. The salary reduction amounts are included in payroll for the policy year in effect when the salary reduction was made, even when the plan is a portion of a cafeteria plan.</p> <p>Employee-authorized deferred compensation plans</p> <p>Employee-authorized deferred compensation plans include</p> <ul style="list-style-type: none"> • pension plans • equity-based compensation plans, and • other deferral plans. <p>References</p> <p>Refer to</p> <ul style="list-style-type: none"> • Rules for including employee-authorized reductions from gross pay in payroll • Rules for including employee-authorized reductions for purchasing stock options or stock purchase plans in payroll, and • Rules for excluding from payroll employer contributions to stock purchase plans. 	
	<p>Rules for including retroactive wages or salaries paid to a current employee in payroll</p> <p>Rule ID: BM-PAYI-RFD81 <i>Effective Date: January 1, 2024</i></p> <p>Include in payroll retroactive wages or salaries paid to a current employee when</p> <ul style="list-style-type: none"> • the payment is within the three-year audit period of the policy, and • the employee was actively employed by the employer <ul style="list-style-type: none"> • at the time wages or salaries were paid, or • during any portion of the current policy period. <p>References</p> <p>Refer to Rules for excluding from payroll retroactive wages or salaries paid to a retired or terminated employee.</p>	<p>Established new rule.</p>
	<p>Rules for excluding from payroll deferred compensation payments to retired or terminated employees</p>	<p>Established new rule.</p>

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Comparison of Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions and Item B-1448*

Current	Proposed	Comments
	<p>Rule ID: BM-PAYE-DA049 <i>Effective Date: January 1, 2024</i></p> <p>Exclude from payroll deferred compensation payments to retired or terminated employees during the current policy period, when</p> <ul style="list-style-type: none"> • the employee is not employed at the time of the distribution, and • records are maintained to separate these payments. <p>References</p> <p>Refer to Rules for including deferred compensation payments to current employees in payroll.</p>	
	<p>Rules for excluding from payroll employer contributions to stock purchase plans</p> <p>Rule ID: BM-PAYE-EAC0A <i>Effective Date: January 1, 2024</i></p> <p>Exclude from payroll employer contributions to qualified or nonqualified employee stock purchase plans.</p> <p>References</p> <p>Refer to Rules for including employee-authorized reductions for purchasing stock options or stock purchase plans in payroll.</p>	Established new rule.
	<p>Rules for excluding from payroll employer contributions to the exercise of stock options</p> <p>Rule ID: BM-PAYE-EA604 <i>Effective Date: January 1, 2024</i></p> <p>Exclude from payroll employer contributions to the exercise of stock options except for employer contributions to an employee’s cashless exercise of stock options.</p> <p>Payment exceptions</p> <p>Include employer contributions to the cashless exercise of stock options in payroll.</p> <p>References</p> <p>Refer to Rules for including employer contributions to the cashless exercise of stock options in payroll.</p>	Established new rule.
	<p>Rules for excluding from payroll employer contributions to deferred compensation plans</p>	Established new rule.

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Comparison of Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions and Item B-1448*

Current	Proposed	Comments
	<p>Rule ID: BM-PAYE-EEBCD <i>Effective Date: January 1, 2024</i> Exclude from payroll employer contributions to deferred compensation plans.</p>	
	<p>Rules for excluding from payroll the difference earned from purchasing discounted stocks Rule ID: BM-PAYE-TA0CB <i>Effective Date: January 1, 2024</i> Exclude from payroll the difference between the market price of stock and any discounted price paid by the employee to purchase the stock.</p>	<p>Established new rule.</p>
	<p>Rules for excluding from payroll the market value of equity-based compensation plans Rule ID: BM-PAYE-TA091 <i>Effective Date: January 1, 2024</i> Exclude from payroll the market value of equity-based compensation plans. This applies when accelerated cliff vesting is triggered by</p> <ul style="list-style-type: none"> • an Initial Public Offering (IPO) of stock, or • a change in majority ownership where the owner or owners before the change own less than one-half interest after the change. <p>References Refer to Rules for including the value of equity-based compensation plans in payroll.</p>	<p>Established new rule.</p>
	<p>Rules for excluding from payroll retroactive wages or salaries paid to a retired or terminated employee Rule ID: BM-PAYE-RA72E <i>Effective Date: January 1, 2024</i> Exclude from payroll retroactive wages or salaries paid to a retired or terminated employee when</p> <ul style="list-style-type: none"> • the payment is within the three-year audit period of the policy • the employee was retired or terminated at the time wages or salaries were paid, and • the employer maintains records that separate such payments. <p>References Refer to Rules for including retroactive wages or salaries paid to a current</p>	<p>Established new rule.</p>

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Comparison of Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions and Item B-1448*

Current	Proposed	Comments
	employee in payroll.	

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