

1977 S.C. Op. Atty. Gen. 84 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-93, 1977 WL 24435

Office of the Attorney General

State of South Carolina

Opinion No. 77-93

March 31, 1977

*1 Payments made to employees under the State disability insurance plan are exempt from State income taxes.

TO: Mr. Carroll H. Brooks

Director

Income Tax Division

QUESTION

Are disability benefits received by an insured under an employer-financed plan exempt from South Carolina income taxation?

STATUTES AND AUTHORITIES

Section 65–253(6) of the South Carolina Code and [Section 22\(b\)\(5\) of the 1939 Internal Revenue Code](#). [Haynes vs. United States](#), 353 U. S. 82, 77 S. Ct. 649.

DISCUSSION

The State of South Carolina has contracted with a private insurance company to provide disability coverage for employees who are absent from work because of sickness or accident. The plan is paid for by the State and provides benefits guaranteeing sixty (60%) percent of the employee's monthly income until he returns to work.

The current South Carolina income tax law is, with various later modifications, an adoption of the early Federal income tax statute. See the Income Tax Act of 1926, Chapter 5 of Volume 13, South Carolina Code of Laws, 1962. Section 65–253 of the Code provides that gross income does not include:

‘(6) Any amounts received through accident on health insurance or under workmen's compensation acts, as compensation for personal injuries or sickness, plus the amount of any damage received whether by suit or agreement on account of such injuries or sickness.’

This language was copied verbatim from the Federal law. In 1957 the United States Supreme Court was asked to consider whether a disability insurance plan set up by an employer, Southern Bell, was income to its employees upon receipt of disability benefits. Under the Southern Bell plan, employees were entitled to receive ‘sickness disability benefits’ when they missed work because of illness. The disability benefits were determined by a percentage of the employee's salary at the time of his illness. The Court found that the disability payments were ‘amounts received through accident or health insurance * * * as compensation for personal injuries or sickness’. That plan was self-insured, however, the Court stated:

‘If Southern Bell had purchased from a commercial insurance company health insurance that provided its employees with precisely the same kind of protection * * * the government concedes that the payments received by ailing employees from a commercial company would not have been taxable.’

CONCLUSION

Payments made to employees under the State disability insurance plan are exempt from State income taxes.

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