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December 12, 2023

## **ALL ASSOCIATION MEMBERS**

Circular No. 23-1832

**RE: NCCI ITEM B-1448-Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions**

The Minnesota Department of Commerce has approved the above filing to become effective for new and renewal policies effective on and after 12:01 a.m. on January 1, 2024. This item clarifies and enhances the **Minnesota Basic Manual** rules related to payroll inclusions and payroll exclusions.

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

1. Revise the payroll inclusion rules.
2. Revise the payroll exclusion 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.
6. Establish additional payroll exclusion rules.

### **Exhibit 1**

Details the revisions to the rule, Rules for including payroll in the **Minnesota Basic Manual**. MWCIA Exhibit 1 incorporates NCCI Exhibits 1, 2, 3 and 7.

***MWCIA staff recommends to adopt the proposed change(s).***

### **Exhibit 2**

Details the revisions to the rule, Rules for excluding payroll in the **Minnesota Basic Manual**. MWCIA Exhibit 2 incorporates NCCI Exhibits 4, 5, 6 and 8.

***MWCIA staff recommends to adopt the proposed change(s).***

### **Exhibit 9**

Not applicable in MN

The attached exhibits illustrate necessary changes to the ***Minnesota Basic Manual***. As in past filings, strikethroughs indicate deleted text while underlining indicates new or added text. A copy of National Council's original filing memorandum is also included to provide additional background information regarding **NCCI Item B-1448 -Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions**.

Please direct any questions you may have concerning this item to MWCIA's Underwriting Department at 952-897-1737, Option 1, or email to [underwriting@mwcia.org](mailto:underwriting@mwcia.org).

**A NOTICE TO MEMBERSHIP:**

MWCIA would like to remind our membership who have filed a Limited Power of Attorney with the Minnesota Department of Commerce that no materials referenced in this Circular Letter are required to be independently filed with the department.

**Effective January 1, 2024**

**EXHIBIT 1**

**Minnesota Basic Manual**

**Rule 2 – Premium Basis and Payroll Allocation**

**B. Payroll**

**1. Includes**

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY
<p>a. <del>Wages or salaries (including retroactive wages or salaries).</del></p> <p>b. Total pay received by an employee for commissions and draws against commissions.</p> <p>c. Bonuses including stock bonus plans. <i>Refer to Rule 2-D for payroll limitation rules.</i></p> <p>d. Extra pay for overtime work except as provided in Rule 2-C-2.</p> <p>e. Pay for holidays, vacations, or periods of sickness. <i>Refer to Rule 2-G for allocation of payroll for employees subject to more than one classification code.</i></p> <p>f. Payment by an employer of amounts that would have been withheld from employees to meet statutory obligations for insurance or pension plans such as the Federal Social Security Act or Medicare.</p>	<p>a. <u>Current wages or salaries paid during the current policy period in payroll.</u></p> <p>b. Total pay received by an employee for commissions and draws against commissions.</p> <p>c. Bonuses including stock bonus plans. <i>Refer to Rule 2-D for payroll limitation rules.</i></p> <p>d. Extra pay for overtime work except as provided in Rule 2-C-2.</p> <p>e. Pay for holidays, vacations, or periods of sickness. <i>Refer to Rule 2-G for allocation of payroll for employees subject to more than one classification code.</i></p> <p>f. Payment by an employer of amounts that would have been withheld from employees to meet statutory obligations for insurance or pension plans such as the Federal Social Security Act or Medicare.</p>

**Effective January 1, 2024**

## EXHIBIT 1

### Minnesota Basic Manual

#### Rule 2 – Premium Basis and Payroll Allocation

##### B. Payroll

##### 1. Includes

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY
<p>g. Payment to employees on any basis other than time worked, such as piecework, profit sharing or incentive plans.</p> <p>h. The rental value of an apartment or house provided to an employee based on comparable accommodations.</p> <p>i. The value of lodging, other than an apartment or house received by an employee as part of their pay to the extent shown in the employer's records.</p> <p>j. The value of meals received by employees as part of their pay to the extent shown in the employer's records.</p> <p>k. The value of store certificates, merchandise, credits or any other substitute for money received by employees as part of their pay.</p> <p>l. <del>Payments for salary reduction, employee savings plans, retirement or cafeteria plans (IRC 125), health savings accounts, and flexible accounts that are made through employee-authorized salary reduction from the employee's gross pay.</del></p> <p>m. Davis-Bacon wages or wages from a similar prevailing wage law.</p>	<p>g. Payment to employees on any basis other than time worked, such as piecework, profit sharing or incentive plans.</p> <p>h. The rental value of an apartment or house provided to an employee based on comparable accommodations.</p> <p>i. The value of lodging, other than an apartment or house received by an employee as part of their pay to the extent shown in the employer's records.</p> <p>j. The value of meals received by employees as part of their pay to the extent shown in the employer's records.</p> <p>k. The value of store certificates, merchandise, credits or any other substitute for money received by employees as part of their pay.</p> <p>l. <u>Payments for employee-authorized reductions from gross pay in payroll.</u></p> <p><u>Examples of payments for employee-authorized reductions from gross pay include:</u></p> <ul style="list-style-type: none"> <li>• <u>salary reductions</u></li> </ul>

**Effective January 1, 2024**

**EXHIBIT 1**

**Minnesota Basic Manual**

**Rule 2 – Premium Basis and Payroll Allocation**

**B. Payroll**

**1. Includes**

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY
<p>n. Annuity plans.</p> <p>o. <del>Expense reimbursements to employees if the employer's records do not confirm that the expense was incurred as a valid business expense. Refer to Rule 2-B-2-h for Contractual allowable travel expenses.</del></p> <p><b>Exception:</b></p> <p><del>When 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, a reasonable allowance is permitted to be excluded.</del></p> <p><del>Refer to Rule 2-B-2-h for additional information about exclusion of expense reimbursements.</del></p> <p>p. Payment for filming of commercials excluding subsequent residuals that are earned by the commercial's participant(s) each time the commercial appears in any type of media.</p>	<ul style="list-style-type: none"> <li>• <u>health savings accounts (HSAs)</u></li> <li>• <u>flexible spending accounts (FSAs)</u></li> <li>• <u>employee savings plans</u></li> <li>• <u>retirement plans, and</u></li> <li>• <u>cafeteria plans, including IRC 125 plans.</u></li> </ul> <p>m. Davis-Bacon wages or wages from a similar prevailing wage law.</p> <p>n. Annuity plans.</p> <p>o. <u>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.</u></p> <p>p. Payment for filming of commercials excluding subsequent residuals that are earned by the commercial's participant(s) each time the commercial appears in any type of media.</p> <p>q. Adjustments made by the employer to raise employees' wages to federal, state, or local minimum wage, whichever is applicable.</p>

**Effective January 1, 2024**

## EXHIBIT 1

### Minnesota Basic Manual

#### Rule 2 – Premium Basis and Payroll Allocation

##### B. Payroll

##### 1. Includes

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY
<p>q. Adjustments made by the employer to raise employees' wages to federal, state, or local minimum wage, whichever is applicable.</p> <p>r. Service charges and automatic gratuities received by employees in payroll. Only the amount of the service charge or automatic gratuity received by employees is included in payroll.</p> <p>Service charges and automatic gratuities are set percentages or fees added to a bill or contract where the customer does not</p> <ul style="list-style-type: none"> <li>determine the amount of the percentage or fee</li> <li>determine who receives the percentage or fee, and</li> <li>have the ability to reduce the payment amount below the set percentage or fee.</li> </ul> <p><i>Refer to Rule 2-B-2-a for additional information about exclusion of tips or other gratuities received by employees.</i></p>	<p>r. Service charges and automatic gratuities received by employees in payroll. Only the amount of the service charge or automatic gratuity received by employees is included in payroll.</p> <p>Service charges and automatic gratuities are set percentages or fees added to a bill or contract where the customer does not</p> <ul style="list-style-type: none"> <li>determine the amount of the percentage or fee</li> <li>determine who receives the percentage or fee, and</li> <li>have the ability to reduce the payment amount below the set percentage or fee.</li> </ul> <p><i>Refer to Rule 2-B-2-a for additional information about exclusion of tips or other gratuities received by employees.</i></p> <p><u>s. 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.</u></p>

**Effective January 1, 2024**

**EXHIBIT 1**

**Minnesota Basic Manual**

**Rule 2 – Premium Basis and Payroll Allocation**

**B. Payroll**

**1. Includes**

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY
	<p><u>t. Employer contributions to an employee's cashless exercise of stock options in payroll.</u></p> <p><u>Exception:</u></p> <p><u>Exclude from payroll employer contributions to the exercise of stock options except for employer contributions to an employee's cashless exercise of stock options.</u></p> <p><u>u. 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</u></p> <ul style="list-style-type: none"><li><u>• graded vesting</u></li><li><u>• scheduled cliff vesting</u></li><li><u>• performance goals vesting, and</u></li><li><u>• milestone anniversaries vesting.</u></li></ul> <p><u>Equity-based compensation plans, other than stock options and stock purchase plans, include</u></p> <ul style="list-style-type: none"><li><u>• stock transfers</u></li></ul>

**Effective January 1, 2024**

**EXHIBIT 1**

**Minnesota Basic Manual**

**Rule 2 – Premium Basis and Payroll Allocation**

**B. Payroll**

**1. Includes**

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY
	<ul style="list-style-type: none"><li>• <u>stock warrants</u></li><li>• <u>restricted stock</u></li><li>• <u>restricted stock units</u></li><li>• <u>phantom stock plans, and</u></li><li>• <u>stock appreciation rights.</u></li></ul> <p><u>v. 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.</u></p> <p><u>w. 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.</u></p> <p><u>Employee-authorized deferred compensation plans include</u></p> <ul style="list-style-type: none"><li>• <u>pension plans</u></li><li>• <u>equity-based compensation plans, and</u></li></ul>



**Effective January 1, 2024**

**EXHIBIT 1**

**Minnesota Basic Manual**

**Rule 2 – Premium Basis and Payroll Allocation**

**B. Payroll**

**1. Includes**

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY
	<ul style="list-style-type: none"><li>• <u>other deferral plans.</u></li></ul> <p><u>x. Retroactive wages or salaries paid to a current employee when</u></p> <ul style="list-style-type: none"><li>• <u>the payment is within the three-year audit period of the policy,</u> <u>and</u></li><li>• <u>the employee was actively employed by the employer</u><ul style="list-style-type: none"><li>○ <u>at the time wages or salaries were paid, or</u></li><li>○ <u>during any portion of the current policy period.</u></li></ul></li></ul>

**Effective January 1, 2024**

## EXHIBIT 2

### Minnesota Basic Manual

#### Rule 2 – Premium Basis and Payroll Allocation

##### B. Payroll

##### 2. Excludes

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY
<p>a. Tips or other gratuities received by employees.</p> <p>Tips or other gratuities are optional payments added to a bill or contract where the customer</p> <ul style="list-style-type: none"> <li>determines the amount of payment</li> <li>determines that the employees receive the payment for services provided, and</li> <li>has the option to not add a payment to the bill or contract.</li> </ul> <p>b. Payments by an employer to group insurance or group pension plans for employees, other than those covered by Rule 2-B-1-f and Rule 2-B-1-m.</p> <p>c. Payments by an employer into third-party trusts for the Davis-Bacon Act or a similar prevailing wage law provided the pension trust is qualified under IRC Sections 401(a) and 501(a).</p> <p>d. The value of special rewards for individual invention or discovery.</p> <p>e. Dismissal or severance payments except for time worked or vacation accrued.</p>	<p>a. Tips or other gratuities received by employees.</p> <p>Tips or other gratuities are optional payments added to a bill or contract where the customer</p> <ul style="list-style-type: none"> <li>determines the amount of payment</li> <li>determines that the employees receive the payment for services provided, and</li> <li>has the option to not add a payment to the bill or contract.</li> </ul> <p>b. Payments by an employer to group insurance or group pension plans for employees, other than those covered by Rule 2-B-1-f and Rule 2-B-1-m.</p> <p>c. Payments by an employer into third-party trusts for the Davis-Bacon Act or a similar prevailing wage law provided the pension trust is qualified under IRC Sections 401(a) and 501(a).</p> <p>d. The value of special rewards for individual invention or discovery.</p>

**Effective January 1, 2024**

## EXHIBIT 2

### Minnesota Basic Manual

#### Rule 2 – Premium Basis and Payroll Allocation

##### B. Payroll

##### 2. Excludes

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY
<p>f. Payments for active military duty.</p> <p>g. Employee discounts on goods purchased from the employee's employer.</p> <p><del>h. Expense reimbursements to employees if the employer's records confirm that the expense was incurred as a valid business expense.</del></p> <p><del>Reimbursed expenses and flat expense allowances paid to employees may be excluded from the audit only if all three of the following conditions are met:</del></p> <p><del>(1) The expenses or allowances are incurred for the business of the employer</del></p> <p><del>(2) The amount of each employee's expense or allowance is shown separately in the records of the employer</del></p>	<p>e. Dismissal or severance payments except for time worked or vacation accrued.</p> <p>f. Payments for active military duty.</p> <p>g. Employee discounts on goods purchased from the employee's employer</p> <p><u>h. Payroll expense reimbursements and flat expense allowances paid to employees only when all of these conditions are met:</u></p> <ul style="list-style-type: none"> <li><u>• The employer's verifiable records confirm that the expenses or allowances are incurred as a valid business expense.</u></li> <li><u>• The amount of each employee's expense or allowance is shown separately in the employer records.</u></li> </ul>

**Effective January 1, 2024**

## EXHIBIT 2

### Minnesota Basic Manual

#### Rule 2 – Premium Basis and Payroll Allocation

##### B. Payroll

##### 2. Excludes

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY
<p><del>(3) The amount of the expense or allowance approximates the actual expense incurred by the employee in the conduct of their work</del></p> <p><b>Note:</b> <del>If an employer did not maintain verifiable receipts for incurred expenses for an employee that was away from home overnight on the business of an employer a maximum expense allowance is permitted to be excluded. Refer to Rule 2-B-1-p Exception for the maximum employee expense allowance.</del></p> <p>Allowable travel expenses permitted by any contract with a federal, state, or local government entity, including, but not limited to, a city, borough, or village, are excluded from payroll. In lieu of verifiable receipts for incurred expenses, the employer must produce a copy of the contract provision permitting the travel expenses at audit.</p>	<ul style="list-style-type: none"> <li><u>• The amount of the expense or allowance approximates the actual expense incurred by the employee in the conduct of their work.</u></li> <li><u>• 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.</u></li> </ul> <p>i. <u>Exclude from payroll a maximum expense allowance of up to \$75 per day when</u></p> <ul style="list-style-type: none"> <li><u>it can be verified that the employee was away from home overnight on business for the employer</u></li> <li><u>the employer did not maintain verifiable records for the employee's daily incurred business expenses, and</u></li> </ul>

**Effective January 1, 2024**

## EXHIBIT 2

### Minnesota Basic Manual

#### Rule 2 – Premium Basis and Payroll Allocation

##### B. Payroll

##### 2. Excludes

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY
<p>The allowable travel expenses must be in addition to the current wage of the employee.</p> <p>i. Meal money for late work.</p> <p>j. Work uniform allowances.</p> <p>k. Sick pay paid to an employee by a third party such as an employer's group insurance carrier that is paying disability income benefits to a disabled employee.</p> <p>l. Employer-provided perks such as:</p> <ul style="list-style-type: none"> <li>• Use of company-provided automobiles</li> <li>• Airplane flights</li> <li>• Incentive vacations (e.g., contest winners)</li> <li>• Discounts on property or services</li> <li>• Club memberships</li> <li>• Tickets to entertainment events</li> </ul>	<ul style="list-style-type: none"> <li>• <u>the daily expense allowance paid to the employee is in addition to, not in lieu of, the wages earned by the employee.</u></li> </ul> <p><u>Include the remaining nonverified daily business expenses in excess of \$75 per day in payroll.</u></p> <p><b>Note:</b></p> <p>Allowable travel expenses permitted by any contract with a federal, state, or local government entity, including, but not limited to, a city, borough, or village, are excluded from payroll. In lieu of verifiable receipts for incurred expenses, the employer must produce a copy of the contract provision permitting the travel expenses at audit. The allowable travel expenses must be in addition to the current wage of the employee.</p> <p><u>j.</u> Meal money for late work.</p>

**Effective January 1, 2024**

## EXHIBIT 2

### Minnesota Basic Manual

#### Rule 2 – Premium Basis and Payroll Allocation

##### B. Payroll

##### 2. Excludes

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY
<ul style="list-style-type: none"> <li>• Educational assistance</li> <li>• Relocation and moving expenses</li> </ul> <p>m. Employer contributions to employee benefit plans such as:</p> <ul style="list-style-type: none"> <li>• Employee savings plans</li> <li>• Retirement plans</li> <li>• Cafeteria plans (IRC 125)</li> <li>• Health savings accounts</li> <li>• Flexible spending accounts</li> </ul> <p>These include contributions made by the employer, at the employer's expense, which are determined by the amount contributed by the employee.</p>	<p><u>k.</u> Work uniform allowances.</p> <p><u>l.</u> Sick pay paid to an employee by a third party such as an employer's group insurance carrier that is paying disability income benefits to a disabled employee.</p> <p><u>m.</u> Employer-provided perks such as:</p> <ul style="list-style-type: none"> <li>• Use of company-provided automobiles</li> <li>• Airplane flights</li> <li>• Incentive vacations (e.g., contest winners)</li> <li>• Discounts on property or services</li> <li>• Club memberships</li> <li>• Tickets to entertainment events</li> <li>• Educational assistance</li> <li>• Relocation and moving expenses</li> </ul> <p><u>n.</u> Employer contributions to employee benefit plans such as:</p> <ul style="list-style-type: none"> <li>• Employee savings plans</li> </ul>

**Effective January 1, 2024**

**EXHIBIT 2**

**Minnesota Basic Manual**

**Rule 2 – Premium Basis and Payroll Allocation**

**B. Payroll**

**2. Excludes**

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY
	<ul style="list-style-type: none"><li>• Retirement plans</li><li>• Cafeteria plans (IRC 125)</li><li>• Health savings accounts</li><li>• Flexible spending accounts</li></ul> <p>These include contributions made by the employer, at the employer's expense, which are determined by the amount contributed by the employee.</p> <p><u>o. Deferred compensation payments to retired or terminated employees during the current policy period, when</u></p> <ul style="list-style-type: none"><li><u>• the employee is not employed at the time of the distribution, and</u></li><li><u>• records are maintained to separate these payments.</u></li></ul> <p><u>p. Employer contributions to qualified or nonqualified employee stock purchase plans.</u></p>

**Effective January 1, 2024**

**EXHIBIT 2**

**Minnesota Basic Manual**

**Rule 2 – Premium Basis and Payroll Allocation**

**B. Payroll**

**2. Excludes**

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY
	<p><u>q. Employer contributions to the exercise of stock options except for employer contributions to an employee's cashless exercise of stock options.</u></p> <p><u>Payment Exceptions:</u></p> <p><u>Include employer contributions to the cashless exercise of stock options in payroll.</u></p> <p><u>r. Employer contributions to deferred compensation plans.</u></p> <p><u>s. Difference between the market price of stock and any discounted price paid by the employee to purchase the stock.</u></p> <p><u>t. Market value of equity-based compensation plans. This applies when accelerated cliff vesting is triggered by</u></p> <ul style="list-style-type: none"><li><u>• an Initial Public Offering (IPO) of stock, or</u></li><li><u>• a change in majority ownership where the owner or owners before the change own less than one-half interest after the change.</u></li></ul>



**Effective January 1, 2024**

**EXHIBIT 2**

**Minnesota Basic Manual**

**Rule 2 – Premium Basis and Payroll Allocation**

**B. Payroll**

**2. Excludes**

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY
	<u>u. Retroactive wages or salaries paid to a retired or terminated employee when</u> <ul style="list-style-type: none"><li><u>• the payment is within the three-year audit period of the policy</u></li><li><u>• the employee was retired or terminated at the time wages or salaries were paid, and</u></li><li><u>• the employer maintains records that separate such payments.</u></li></ul>



APRIL 26, 2023

ITEM FILING ANNOUNCEMENT

CIF-2023-31

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## Countrywide—Announcement of Item B-1448—Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions in Alaska and Oregon

### ACTION NEEDED

Please review the changes outlined in the attachment to this circular for impact on your company's systems and procedures. Also, review the weekly *Status of Item Filings* circular for state approval of this item.

**Caution:** At the time of distribution of this circular, this filing has been filed with the regulator but is **not yet approved**. This information is provided for your convenience and analysis. Please do not use this information until the regulator has approved the filing.

### BACKGROUND

NCCI has submitted Item B-1448—Revisions to Basic Manual Rules Related to Payroll Inclusions and Payroll Exclusions to the appropriate state regulatory authority in Alaska and Oregon, the Alaska Division of Insurance and the Oregon Division of Financial Regulation, respectively.

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.

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

Refer to the attachment for details on this item, including all state-specific treatments.

### 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.

### NCCI ACTION

NCCI will take the following actions for Item B-1448:

- Issue a circular notifying you when the item is approved as filed, approved with changes, disapproved, or withdrawn
- Update the weekly *Status of Item Filings* circular on **ncci.com** with the latest state status
- Publish updated pages for NCCI's *Basic Manual* prior to the effective date, if approved

If you would like to subscribe to any of our manuals, please call our Customer Service Center at 800-NCCI-123 (800-622-4123).

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**PERSON TO  
CONTACT**

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## Filing Memorandum

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

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#### 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**

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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
	<b>Multistate Exhibits</b>	
1	<p>Details the revisions to the rule, Rules for including wages and salaries in payroll (Rule ID: BM-PAYI-R5CC5), in NCCI's <b>Basic Manual</b>.</p> <ul style="list-style-type: none"> <li>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</li> <li>Refer to state exhibit for MT</li> </ul>	<ul style="list-style-type: none"> <li>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.</li> <li>In Hawaii, the effective date will be determined upon regulatory approval of the individual carrier's election to adopt this change.</li> </ul>
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 <b>Basic Manual</b>.</p> <ul style="list-style-type: none"> <li>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</li> <li>Refer to state exhibit for OK</li> </ul>	
3	<p>Details the revisions to the rule, Rules for including expense reimbursements in payroll (Rule ID: BM-PAYI-RC30B), in NCCI's <b>Basic Manual</b>.</p> <ul style="list-style-type: none"> <li>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</li> <li>Refer to state exhibits for AZ, MS, MT, TX</li> </ul>	
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 <b>Basic Manual</b>.</p> <ul style="list-style-type: none"> <li>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</li> <li>Refer to state exhibits for AK</li> </ul>	
5	<p>Details the elimination of the rule, Rules for excluding from payroll expense reimbursements (Rule ID: BM-PAYE-R168D), in NCCI's <b>Basic Manual</b>.</p> <ul style="list-style-type: none"> <li>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</li> <li>Refer to state exhibits for OR</li> </ul>	

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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 <b>Basic Manual</b>.</p> <ul style="list-style-type: none"> <li>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</li> <li>Refer to state exhibits for MS, TX</li> </ul>	
7	<p>Details the establishment of the following payroll inclusion rules in NCCI's <b>Basic Manual</b>:</p> <ul style="list-style-type: none"> <li>Rules for including employee-authorized reductions for purchasing stock options or stock purchase plans in payroll (Rule ID: BM-PAYI-EA0E4)</li> <li>Rules for including employer contributions to the cashless exercise of stock options in payroll (Rule ID: BM-PAYI-EA932)</li> <li>Rules for including the value of equity-based compensation plans in payroll (Rule ID: BM-PAYI-TCF8E)</li> <li>Rules for including deferred compensation payments to current employees in payroll (Rule ID: BM-PAYI-DA240)</li> <li>Rules for including employee-authorized reductions to fund deferred compensation plans in payroll (Rule ID: BM-PAYI-EA9A2)</li> <li>Rules for including retroactive wages or salaries paid to a current employee in payroll (Rule ID: BM-PAYI-RFD81)</li> <li>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</li> </ul>	
8	<p>Details the establishment of the following payroll exclusion rules in NCCI's <b>Basic Manual</b>:</p> <ul style="list-style-type: none"> <li>Rules for excluding from payroll deferred compensation payments to retired or terminated employees (Rule ID: BM-PAYE-DA049)</li> <li>Rules for excluding from payroll employer contributions to stock purchase plans (Rule ID: BM-PAYE-EAC0A)</li> </ul>	

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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"> <li>Rules for excluding from payroll employer contributions to the exercise of stock options (Rule ID: BM-PAYE-EA604)</li> <li>Rules for excluding from payroll employer contributions to deferred compensation plans (Rule ID: BM-PAYE-EEBCD)</li> <li>Rules for excluding from payroll the difference earned from purchasing discounted stocks (Rule ID: BM-PAYE-TA0CB)</li> <li>Rules for excluding from payroll the market value of equity-based compensation plans (Rule ID: BM-PAYE-TA091)</li> <li>Rules for excluding from payroll retroactive wages or salaries paid to a retired or terminated employee (Rule ID: BM-PAYE-RA72E)</li> <li>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</li> </ul>	
	<b>State Exhibits</b>	
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 <b>Basic Manual</b> 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 <b>Basic Manual</b> for Arizona.	
9	Details the revisions to the following rules in NCCI's <b>Basic Manual</b> for Montana: <ul style="list-style-type: none"> <li>Rules for including wages and salaries in payroll (Rule ID: BM-PAYI-R5CC5), and</li> <li>Rules for including expense reimbursements in payroll (Rule ID: BM-PAYI-RC30B).</li> </ul>	
9	Details the revisions and establishment of the following rules in NCCI's <b>Basic Manual</b> for Mississippi: <ul style="list-style-type: none"> <li>Rules for including expense reimbursements in payroll (Rule ID: BM-PAYI-RC30B), and</li> <li>Rules for excluding from payroll a maximum daily expense allowance for nonverified expenses incurred on overnight business (Rule ID: BM-PAYE-AAC0F).</li> </ul>	
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 <b>Basic Manual</b> for Oklahoma.	
9	Details the elimination of the rule, Rules for excluding from payroll expense reimbursements (Rule ID: BM-PAYE-R168D), in NCCI's <b>Basic Manual</b> for Oregon.	
9	Details the revisions and establishment of the following rules in NCCI's <b>Basic Manual</b> for Texas: <ul style="list-style-type: none"><li>Rules for including expense reimbursements in payroll (Rule ID: BM-PAYI-RC30B), and</li><li>Rules for excluding from payroll a maximum daily expense allowance for nonverified expenses incurred on overnight business (Rule ID: BM-PAYE-AAC0F).</li></ul>	

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

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**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**

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**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

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Exhibit 3

Basic Manual—Effective 2021

(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)

**Rules for including nonverified expense reimbursements and flat expense allowances in payroll**

Rule ID: BM-PAYI-RC30B

Effective Date: ~~November 1, 2021~~ 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**

~~Exclude a reasonable expense allowance of up to \$75 per day from payroll if it can be verified that the employee was away from home overnight on business for the employer, but the employer did not maintain verifiable receipts for incurred expenses. Include the remaining nonverifiable expenses in 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.

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

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**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**

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**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**

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**Exhibit 6**

**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, MT, NE, NH,  
NM, NV, OK, OR, RI, SC, SD, TN, UT, VA, VT, WV)

**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 \$75 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 \$75 per day in payroll.

**References**

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

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

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**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.

**References**Refer 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**

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**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.

**References****Refer 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.

**References****Refer 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

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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**

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**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

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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**

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**Exhibit 9****Basic Manual—Effective 2021—Alaska****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 payroll expense reimbursements to employees if the employer's records confirm that the expense was incurred as a valid business expense.~~ Exclude from the audit reimbursed expenses payroll 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 payments or allowances are shown separately in the employer records.
- The amount of the each employee's expense reimbursement or allowance is a fair estimate of 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.

**Hand tools and hand-held power tool expenses**

~~Do not exclude from the audit.~~ Include expense reimbursements and flat expense allowances paid to employees for hand tools and hand-held power tools ~~from the audit~~ in payroll.

**~~Reasonable expense allowance for nonreceipted expenses~~**

~~Exclude from payroll a reasonable expense allowance of up to \$75 per day, when it can be verified that the employee was away from home overnight on business of the employer, but the employer did not maintain verifiable receipts for the incurred expenses.~~

**References**

Refer to NCCI's *Basic Manual User's Guide* for an example.

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

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**Exhibit 9**

**Basic Manual—Effective 2021—Oregon**

**~~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 substantiate that the expense was incurred as a valid business expense.~~