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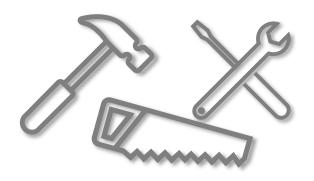
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# HOTMA Implementation Toolkit







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### Costello Compliance Housing Rules Blog

### https://www.costellocompliance.com/blog

### Useful resources

- Over 100 articles on all aspects of HOTMA for all affected programs as it has evolved.
- Video series on HUD HOTMA Tenant Selection Plan adjustments.
- Quizzes to test knowledge.
- Many useful documents.

For more information, references appear throughout this toolkit.





### Introduction

### What is HOTMA?

**Purpose** | As the name indicates, the *Housing Opportunities Through Modernization Act* of 2016 (HOTMA) sought to modernize HUD programs and provide more housing opportunities by reducing burdens on owners/agents, Public Housing Authorities (PHAs), applicants, and residents of HUD housing. It is a top-to-bottom revision of many HUD policies and procedures.

**History |** HOTMA was passed into law in 2016 and regulated by HUD in 2023 to be effective 1/01/2024. Owners/agents were required to develop draft Tenant Selection Plans (TSPs) for HUD-funded properties and make these available to residents by 5/31/2024.

### **HOTMA Applicability by Program**

Program with Unknown HOTMA date

### **HUD Section 8 PBRA**

In part because of delays in HUD's TRACS 203A software, HUD extended the period for owners/agents to come into compliance with HOTMA for HUD programs to 1/01/2026.

### **HUD Section 811**

HUD 811 Rental Assistance Contracts use TRACS and therefore cannot use HOTMA protocols. An owner/agent (like CPM) cannot implement HOTMA earlier than HUD does on 811 units, however Section 811 RACs are on very few units at a property and will not hold up implementation on the rest of the units at a property.

Programs with 7/01/2025 HOTMA date

### **LIHTC and TCAP**

As HOTMA legally applied as of 1/01/2024, but HUD is allowing time for its programs to come into compliance, for LIHTC purposes, state agencies may apply mandatory set dates or allow owners/agents to select dates with a maximum deadline. SDHDA and WCDA have allowed owners/agents until 1/01/2026 to implement the new HOTMA rules. As Rural Development requires implementation on 7/01/2025 and considering the many benefits of HOTMA, CPM will apply HOTMA to all properties, except those funded by HUD Section 8 PBRA.

### **HOME** and **NHTF**

HUD has allowed up to 1/02/2026 for HOME/NHTF agencies, and then owners/agents, to come into compliance with HOTMA.

### **Rural Development**

RD requires HOTMA compliance by 7/01/2025.





### **HOTMA Verification Hierarchy**

### "Highest" acceptability

- ☐ **Upfront Income Verification** (UIV), from a source database.
  - **EIV** Only for HUD properties (cannot be used for LIHTC purposes).

Non-EIV systems

(Such as the Work Number, web-based state benefits systems, etc.).



### "High" acceptability

Written, third-party verification from the source provided by the tenant.

Level 4

Also known as "tenant-provided verification"

**Examples |** pay stubs, payroll summary reports, employer notices/letters of hire/termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment benefit notices.

HUD programs include EIV with self-certification if the tenant agrees that EIV is accurate.

### "Medium" acceptability

Written third-party verification form provided directly by the third-party.

Level 3

- Use if Level 5 or Level 4 verification is not available or is rejected by the PHA/MFH Owner.
- Oral third-party verification.

Level 2

### "Low" acceptability

■ Self-certification.

Level 1

### Other Details

Fixed Income. "For fixed-income sources, a statement dated within the appropriate benefit year is acceptable documentation."

**Pay stubs.** "For new income sources or when ... pay stubs are not available, the Owner should determine income based on the information from a traditional written, third-party verification form or the best available information."

**Income tax returns.** "Returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (such as the tax preparer's transmittal receipt, a summary of transmittal from online source, etc.) are an acceptable form of written, third-party verification."

**Checking accounts.** When verification of assets is required, Owners are required to obtain one statement that reflects the current balance of banking/financial accounts. Owners were previously required to average the balance of six checking account statements to determine the cash value of a checking account.

### "Safe Harbor" Means-Tested Program Income Determinations

Joint HOTMA Notice 2023-10, Attach J, Table J2 HOTMA Verification Hierarchy

24 CFR §5.609(c) | Joint HOTMA Notice 2023-10 J4

The owner may determine the family's income prior to the application of any deductions applied following §5.611 *based on income determinations made within the previous* **12-month period** for purposes of the following means-tested forms of Federal public assistance:

- (A) **TANF** | The Temporary Assistance for Needy Families block grant (42 U.S.C. 601, et seq.).
- (B) **Medicaid** (42 U.S.C. 1396 et seq.).
- (C) **SNAP** | The Supplemental Nutrition Assistance Program (42 U.S.C. 2011 et seq.).
- (D) **EITC** | The Earned Income Tax Credit (26 U.S.C. 32).



- (E) **LIHTC** | The Low-Income Housing Credit (26 U.S.C. 42).
- (F) WIC | The Special Supplemental Nutrition Program for Women, Infants, and Children (42 U.S.C. 1786).
- (G) SSI | Supplemental Security Income (42 U.S.C. 1381 et seq.).
- (H) Other programs administered by the Secretary of HUD. i.e. Sec 8, Housing Choice Vouchers (HCV).
- (I) Other means-tested forms of Federal public assistance for which HUD has established a memorandum of understanding.
- (J) Other Federal benefit determinations made in other forms of means-tested Federal public assistance that the Secretary determines to have comparable reliability and announces through the Federal Register.

The cert form for the program will provide verification (for example, the HUD 50058 for an HCV holder). 24 CFR § 5.609(c)(3)(ii) | Joint HOTMA Notice 2023–10 J.4.

### Verification of other program income determinations.

The verification must indicate the tenant's family size and composition and state the amount of the family's annual income. The annual income need not be broken down by family member or income type.

### **RD Variances**

RD *does not allow* the safe harbor means-tested program method of verification or asset self-certification.

7 CFR 3560.152 (e)

"Tenant certification and verification. Tenants and borrowers must execute an Agency-approved tenant certification form establishing the tenant's eligibility prior to occupancy. In addition, tenant households must be recertified and must execute a tenant certification form at least annually or whenever *a change in household income of \$100 or more per month* occurs. Borrowers must recertify for *changes of \$50 per month, if the tenant requests* that such a change be made."



7 CFR 3560.153

- (a) Annual income will be calculated in accordance with 24 CFR 5.609.
- (b) Adjusted income will be calculated in accordance with 24 CFR 5.611.

UL dated March 4, 2024

RD will adopt the *income and asset exclusions* and adjusted income rules in HOTMA 24 CFR 5.609(a) and (b) and 5.611. However, HOTMA at 24 CFR 5.609 (c) implements the following provisions that will not apply to RD. At some point in the future, RD will revise the regulation at 7 CFR 3560.153(a) to state that "annual income will be calculated in accordance with 24 CFR 5.609(a) and (b)", or similar. Because RD is excluding 5.609(c), owners/agents of RD properties *will not-*

□ Calculate family income at initial occupancy and interim reexaminations where adjusted income is estimated to increase or decrease by 10%.
 ○ RD's \$100 and \$50 thresholds continues to apply.

☐ Fully verify fixed family income every three years using HUD streamlined income determinations.

- Full annual recertification is required.
- ☐ Utilize other means-tested programs' determination of income.
  - o All income and asset eligibility must be fully verified by the owner/agent.
- ☐ Implement HOTMA de minimis allowances for errors of no more than \$30 per month.
  - RD will continue to follow its Unauthorized Assistance rules without de minimis provisions.



UL and FAQ dated 8/19/2024

### RD will also not implement

- ☐ Self-certification for assets that do not exceed \$50,000.
  - All assets will need to be verified.
- ☐ The HOTMA HUD asset limitations at 24 CFR 5.618(a)
- ☐ The HOTMA verification hierarchy.

Note: some tenant-supplied documentation may be preferred, such as Social Security award letters, pay stubs, and bank statements. RD will issue further guidance.

### RD will apply

- 1. Current balance for checking accounts
- 2. Definitions of "earned income", "foster adult", "foster child", "health and medical care expenses", "net family assets", and "unearned income".
- 3. Asset \$50,000 thresholds for imputed asset income and when non-necessary personal property is excluded.



### Family and Household Members

### Chart | Income by Household Member Type

Adapted for HOTMA from Handbook 4350.3 Figure 5-2

### Whose Income Do We Count? Post HOTMA

"Family" Members *	"Family" Members * Earned Income Unc Counted? Inc	
Head, Spouse, and/or Co-head	Yes	Yes
Other Adult Household Member	Yes	Yes
"Family" Dependents *		
Child Under 18	No	Yes
FT Student over 18 (not the head, co-head, or spouse)	Yes Up to the current dependent deduction ***	Yes
Temporarily Absent Household Member	Yes	Yes
Person permanently living in a care facility	This is a Hous	sehold decision
Non-Family "Household" Members *		
Live-In Attendant	No	No
Foster Adults and Children	No **	No **
Guests	No	No
*According to HUD guidance, "family" members an authorized occupants of a unit. Post HOTMA, live-inot the family. h ** Changed by HOTMA from "yes"		
*** Changed by HOTMA from \$480		





### **HOTMA Annual Adjustment Factors**

Joint HOTMA Notice 2023-10, Attach. H

HUD intends to annually publish eight inflation-adjusted items and the passbook savings rate in a table no later than September 1. The updated values will be shared online at the HUD User website. The adjustments will apply to both MFH and PIH programs, and any other programs affected by HOTMA. The revised amounts will be effective on January 1 of the following year. The first adjustments were published in August 2024 and effective January 1, 2025.

### Chart | Annual Adjustment Factor Details

/				Amount at the	Amount for the		
			Implementation	start of	start of 2025	Rounding	
	Adjusted Item	Regulation	Notice Section	нотма		Methodology	Applicable Programs
ſ	Asset eligibility restriction	24 CFR 5.618 (a)(1)(i)	Attachment A	\$100,000	\$103,200	Nearest dollar	HUD subsidy programs
ı	Imputed asset income threshold	24 CFR 5.609 (a)(2) & (b)(1)	Attachment F	\$50,000	\$51,600	Nearest dollar	HUD programs   LIHTC   HOME   NHTF
4	Non-necessary personal property inclusion threshold	24 CFR 5.603(b) Net family assets	Attachment F	\$50,000	\$51,600	Nearest dollar	HUD programs   LIHTC   HOME   NHTF
	Asset self- certification threshold	24 CFR 5.618(b)(1)	Attachment F	\$50,000	\$51,600	Nearest dollar	HUD programs   LIHTC   HOME   NHTF
ľ	Elderly household deduction	24 CFR 5.611(a)(2)	Attachment C	\$525	\$525	Next lowest multiple of \$25	HUD programs   HOME, when rent is based on adjusted income
١	Deduction for dependents	24 CFR 5.611(a)(1)	Attachment C	\$480	\$480	Next lowest multiple of \$25	HUD programs
١						multiple of \$25	HOME, when rent is based on adjusted income
	Limit on earned income for adult full-time students	24 CFR 5.609 (b)(14)	Attachment G	\$480	\$480	Next lowest multiple of \$25	· ·
	income for adult		Attachment G  Attachment G	\$480	\$480	Next lowest	on adjusted income HUD programs   LIHTC
	income for adult full-time students Limit on adoption	(b)(14) 24 CFR 5.609			, , ,	Next lowest multiple of \$25	on adjusted income  HUD programs   LIHTC   HOME   NHTF  HUD programs   LIHTC

The "Asset Threshold"





### Worksheet | Annual Adjustment Factors through 2032

			Fill in tl	he blan	ks				
Adjusted Item	2024	2025	2026	2027	2028	2029	2030	2031	2032
Asset eligibility restriction	\$100,000	\$103,200							
Imputed asset income threshold	\$50,000	\$51,600			•				
Non-necessary personal property inclusion threshold	\$50,000	\$51,600							
Asset self- certification threshold	\$50,000	\$51,600							
Elderly household deduction	\$525	\$525							
Deduction for dependents	\$480	\$480							
Limit on earned income for adult full-time students	\$480	\$480							
Limit on adoption assistance payments	\$480	\$480							
Passbook savings rate	.4%	. 45%							

### **Income Exclusions**

# Income Inclusions (full text from the regulation) Annual Income Includes...

24 CFR §5.609(a)

- (1) All amounts, not specifically excluded in paragraph (b) of 24 CFR §5.609, *received* from all sources by each member of the family who is 18 years of age or older or is the head of household or spouse of the head of household, plus unearned income by or on behalf of each dependent who is under 18 years of age, and
- (2) When the value of net family assets exceeds \$50,000 (which amount HUD will adjust annually per the Consumer Price Index for Urban Wage Earners and Clerical Workers) and the actual returns from a given asset cannot be calculated, imputed returns on the asset based on the current passbook savings rate, as determined by HUD.

When NET income is counted



### Checklist | Net Income

In many cases, annual income includes gross income, before any deductions. However, there are several cases where net income is appropriately used per HUD rules. Below is a list of these cases and where the justification can be found to include them on the list.

na ta	o includ	e them on the list.	
	Socia	l security	
		Delayed benefits   24 CFR §5.609(b)(16)	
		Adjustments for prior overpayments   4350.3 5	5-6 (I)
		Amounts split by court order   4350.3 5-6 L (4)	
	Self-e	employment and other business activit	y 24 CFR §5.609(b)(28)
	Renta	al income when real estate rentals are a	
	person	's primary source of income   4350.3 5-2	
	(a)(3)		Costello
	Milita	ігу	
		Hostile Fire Payments   24 CFR §5.609(b)(11)	
		Delayed benefits   24 CFR §5.609(b)(16)	OF STATE OF
	01		

Nonrecurring income

- Amount that are specifically excluded | 24 CFR §5.609(b) (24)
- ☐ Income that is normally counted, but that will end within the year and not be repeated | Joint HOTMA Notice 2023-10 G.1
- ☐ Income from assets (for instance, net rental income from real estate that is not a person's primary source of income).

Note: Net income is never counted lower than \$0, even if the net amount is a loss.



Originally the answers to a Housing Rules Blog Quiz https://www.costellocompliance.com/blog





### **Income Exclusions**

### Chart | Summary of Income Exclusions (by income type and persons who benefit)

from HUD PIH guidance

### **Income Exclusions Table**

Category	Exclusion	CFR	Description	
Other Federally Mandated Income Exclusions		24 CFR 5.609(b)(22)	Amounts that must be excluded by federal statute. HUD will publish a Federal Register notice that includes the qualifying benefits.	
Assets	Imputed Income from Assets	24 CFR 5.609(b)(1)	Any imputed return on an asset when net family assets total \$50,000 (adjusted annually) or less and no actual income from the net family assets can be determined.	
Non-recurring income	Non-recurring income	24 CFR 5.609(b)(24)	Income that will not be repeated in the coming year based on information provided by the family.	
Self-employment	Gross Self-employment Income	24 CFR 5.609(b)(28)	Gross income received through self-employment or operation of a business	
Dependents	Minors (children under the age of 18 years)	24 CFR 5.609(b)(3)	All earned income of all children under the age of 18, including foster children.	
Dependents	Adoption assistance payments	24 CFR 5.609(b)(15)	Adoption assistance payments for a child in excess of the amount of the dependent deduction.	
Students	Earned Income of Dependent Students	24 CFR 5.609(b)(14)	Earned income of dependent full-time students in excess of the amount of the dependent deduction.	
Students	Title IV HEA Assistance	24 CFR 5.609(b)(9)(i)	Any assistance that Section 479B of the Higher Education Act (HEA) of 1965, as amended, requires to be excluded from a family's income.	
Students	Other Student Financial Assistance	24 CFR 5.609(b)(9)(ii)	Student financial assistance, not excluded under the HEA, for actual covered costs of higher education.	
Students	Educational Savings Account	24 CFR 5.609(b)(10)	Income and distributions from any Coverdell educational savings account of or any qualified tuition program under IRS section 530 or any qualified tuition program under section 529.	
Baby bonds	Baby bonds	24 CFR 5.609(b)(10)	Income earned by government contributions to, or distribution from, 'baby bond' accounts created, authorized or funded by federal, state or local government.	
Foster children / adults	Payments for Foster Children / Adults	24 CFR 5.609(b)(4)	Payments received for the care of foster children or adults, including State kinship, guardianship care payments, or tribal kinship payments.	
Foster children / adults	Income of foster children / adults	24 CFR 5.609(b)(8)	Income of a live-in aide, foster child, or foster adult as defined in 24 CFR 5.403 and 5.603.	
Live-in Aide	Income of a Live-in Aide	24 CFR 5.609(b)(8)	Income of a live-in aide, foster child, or foster adult.	
People with Disabilities	ABLE accounts	24 CFR 5.609(b)(22)	Will be included in federally mandated excluded amounts. Notice PIH 2019-09/H-2019-06 details when ABLE account income is excluded.	
People with Disabilities	State Payments to Allow Individuals with Disabilities to Live at Home	24 CFR 5.609(b)(19)	Payment made by an authorized by a state Medicaid managed care system or other state agency to a family to enable a family member to live in the family's assisted unit.	
People with Disabilities	Plan to Attain Self-Sufficiency (PASS)	24 CFR 5.609(b)(12)(i)	Amounts set aside for use under a Plan to Attain Self-Sufficiency (PASS).	
People with Disabilities	Reimbursements for Health and Medical Care Expenses	24 CFR 5.609(b)(6)	Amounts for, or in reimbursement of, health and medical care expenses for any family member.	

(continued)



Category	Exclusion	CFR	Description			
Trusts	Trust distributions	24 CFR 5.609(b)(2)	Any distributions of a trust's principal are excluded. PHAs an owners must count any distributions of income from an irrevoc trust or a trust not under the control of the family (e.g., distribut of earned interest) as income to the family with the expectat of distributions used to pay the health and medical care expend a minor.			
Insurance	Insurance payments and settlements for personal or property loss	24 CFR 5.609(b)(5)	Insurance payments and settlements for personal or property loss including, but not limited to: payments through health insurance, motor vehicle insurance, and workers' compensation.			
Retirement	Retirement plan	24 CFR 5.609(b)(26)	Income received from any account under an IRS-recognized retirement plan. However, periodic payments are income at the time of receipt.			
Military	Hostile fire special payment	24 CFR 5.609(b)(11)	The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.			
Veterans	Veterans aid and attendance payments	24 CFR 5.609(b)(17)	Payments related to aid and attendance for veterans under 38 U.S.C. 1521.			
Lawsuits	Lawsuit Settlements	24 CFR 5.609(b)(7)	Amounts recovered in a civil action or settlement based on malpractice, negligence and other breach of duty claim resulting in a family member becoming disabled.			
Lawsuits	Reparations for Persecution	24 CFR 5.609(b)(13)	Reparation payments paid by a foreign government for claims by people persecuted during the Nazi era.			
Lawsuits	Tribal Claims Payments	24 CFR 5.609(b)(21)	Payments received by tribal members from claims relating to the mismanagement of assets held in trust by the United States.			
Lawsuits	Lawsuits related to civil rights	24 CFR 5.609(b)(25)	Civil rights settlements or judgments, including settlements or judgments for back pay.			
Reimbursements	Reimbursements from publicly assisted programs	24 CFR 5.609(b)(12)(ii)	Amounts received by a participant in other publicly assisted programs for or in reimbursement of expenses to allow program participation (e.g., special equipment, clothing, transportation, child care, etc.).			
Resident Services Stipend	Resident Services Stipend	24 CFR 5.609(b)(12)(iii)	Resident service stipends of \$200 or less per month for performing a part-time service for the PHA that enhances the quality of life in the development.			
Employment training programs	Employment training programs	24 CFR 5.609(b)(12)(iv)	Incremental earnings and benefits from training programs HUD and qualifying employment training programs and training of a family member as resident management staff.			
FSS	Family Self Sufficiency Account	24 CFR 5.609(b)(27)	Income earned on amounts placed in a family's FSS account.			
Housing gap payments	Housing "gap" payments	24 CFR 5.609(b)(23)	Replacement housing "gap" payments to offset increased rent and utility costs to families displaced from one federally subsidized housing unit and another.			
Benefits	Deferred Supplemental Security Income, SS income and benefits, or VA disability benefits	24 CFR 5.609(b)(16)	Deferred periodic amounts from: SSI, Supplemental Security Income and benefits or VA disability benefits that are received in a lump sum or prospective monthly amounts.			
Property tax rebates	Property Tax Rebates	24 CFR 5.609(b)(18)	Refunds or rebates under state or local law for property taxes paid on the dwelling unit.			
Loans	Loan Proceeds	24 CFR 5.609(b)(20)	The net amount disbursed by a lender to a borrower or a third party (e.g., educational institution or car dealership).			



# Annual Income Does Not Include... (the 28 HOTMA +29 Other Federal Exclusions) (Full text from the Regulation)

24 CFR §5.609(b)

Note | Income types unchanged by HOTMA are *indicated in this font*. Only section identified as a "Note" are not directly from the regulation.

- (1) Any imputed return on an asset when net family assets total \$50,000 or less (which amount HUD will adjust annually per the Consumer Price Index for Urban Wage Earners and Clerical Workers) and no actual income from the net family assets can be determined.
- (2) The following types of trust distributions:
  - For an *irrevocable trust or a revocable trust outside the control of the family* or household excluded from the definition of net family assets in the HUD regulation § 5.603(b)
    - (A) Distributions of the principal or corpus of the trust; and
    - (B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.
  - For a *revocable trust under the control of the family* or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust.
- (3) Earned income of children under 18 years of age.
- (4) Payments received for the care of foster children or foster adults, or State or Tribal kinship or guardianship care payments.
- (5) Insurance payments and settlements for personal or property losses, including but not limited to payments through health insurance, motor vehicle insurance, and workers' compensation.
- (6) Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expenses for any family member.
- (7) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.
- (8) Income of a live-in aide, foster child, or foster adult as defined in §5.403 and §5.603, respectively.
- (9) **Student Assistance Type 1** Any assistance under Title IV, 479B of the Higher Education Act of 1965 (HEA), as amended, is excluded from income.
  - **Student Assistance Type 2** | Student financial assistance for tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, and other fees required and charged to a student by an institution of higher education (as defined under Section 102 of the Higher Education Act of 1965) and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.
  - (A) Student financial assistance means a grant or scholarship received from—
    - (1) The Federal government
    - (2) A State, Tribe, or local government
    - (3) A private foundation registered as a 501(c)(3) nonprofit
    - (4) A business entity (such as a corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, a public benefit corporation, or nonprofit entity), or
    - (5) An institution of higher education.
    - (B) Student financial assistance does not include—
      - (1) Any assistance that is excluded pursuant to the HEA Title IV, 479B (see above)
      - (2) Financial support provided to the student in the form of a fee for services performed (e.g., a work study or teaching fellowship that is not excluded pursuant to the HEA Title IV 479B)
      - (3) Gifts, including gifts from family or friends, or



(4) Any amount of the scholarship or grant that, either by itself or in combination with assistance excluded under this paragraph or the HEA 479B (see above), exceeds the actual covered costs of the student. The actual covered costs of the student are the actual costs of tuition, books, and supplies (including supplies and equipment to support students with learning disabilities or other disabilities), room and board, or other fees required and charged to a student by the education institution, and, for a student who is not the head of household or spouse, the reasonable and actual costs of housing while attending the institution of higher education and not residing in an assisted unit.

### (C) Student financial assistance must be expressly:

- (1) for tuition, books, room, and board, or other fees required and charged to a student by the educational institution
- (2) to assist a student with the costs of higher education, or
- (3) to assist a student who is not the head of household or spouse with the reasonable and actual costs of housing while attending the educational institution and not residing in an assisted unit.
- **(D) Student financial assistance may be paid** directly to the student or to the educational institution on the student's behalf. Student financial assistance paid to the student must be verified by the responsible entity as student financial assistance.
- **(E)** When the student is also receiving assistance excluded under HEA Title IV 479B (see above) the amount of student financial assistance that must be counted is determined by adding the HEA 479 B assistance to the other assistance.
  - (1) If the amount of the HEA 479B assistance excluded above is equal to or exceeds the actual covered costs, all of the other assistance is counted as income.
  - (2) If the amount of HEA 479B assistance excluded above is less than the actual covered costs, the amount of assistance that is considered student financial assistance is the amount by which the actual covered costs exceed both types of student assistance.
- (10) Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by Federal, State, or local government.
- Note | According to HUD, baby bonds are "money held in trust by the government for children until they are adults" These "are being authorized in various States and localities in an effort to combat the wealth gap and address systemic poverty."
- (11) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
- (12) (i) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

### Note | PASS is an SSI provision to help individuals with disabilities return to work.

- (ii) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (e.g., special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program;
- (iii) Amounts received under a resident service stipend not to exceed \$200 per month.

A resident service stipend is a modest amount received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.

(iv) Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are



excluded only for the period during which the family member participates in the employment training program unless those amounts are excluded under paragraph (b)(9)(i) of this section.

(13) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

(14) Earned income of dependent full-time students in excess of the amount of the deduction for a dependent in § 5.611.

(15) Adoption assistance payments for a child in excess of the amount of the deduction for a dependent in § 5.611.

### Note | (14) & (15) will be \$480 through 2024 but will be indexed for inflation annually starting in 2025.

- (16) Deferred periodic amounts from Supplemental Security Income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.
- (17) Payments related to aid and attendance under 38 U.S.C. 1521 to veterans in need of regular aid and attendance.
- (18) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling unit.
- (19) Payments made by or authorized by a State Medicaid agency (including through a managed care entity) or other State or Federal agency to a family to enable a family member who has a disability to reside in the family's assisted unit. Authorized payments may include payments to a member of the assisted family through the State Medicaid agency (including through a managed care entity) or other State or Federal agency for caregiving services the family member provides to enable a family member who has a disability to reside in the family's assisted unit.
- (20) Loan proceeds (the net amount disbursed by a lender to or on behalf of a borrower, under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family from a private loan to enable attendance at an educational institution or to finance the purchase of a car).
- (21) Payments received by Tribal members as a result of claims relating to the mismanagement of assets held in trust by the United States, to the extent such payments are also excluded from gross income under the Internal Revenue Code or other Federal law.
- (22) Amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in the exclusions in the HUD regulations apply. **HUD will publish a notice in the Federal Register** to identify the benefits that qualify for this exclusion. Updates will be published when necessary.
- (23) Replacement housing "gap" payments made in accordance with 49 CFR part 24 that offset increased out-of-pocket costs of displaced persons that move from one federally subsidized housing unit to another Federally subsidized housing unit. Such replacement housing "gap" payments are not excluded from annual income if the increased cost of rent and utilities is subsequently reduced or eliminated, and the displaced person retains or continues to receive the replacement housing "gap" payments.
- Note | "Gap" payments are payments made to persons who are displaced by a federally funded program under the Uniform Relocation Act.
- (24) **Nonrecurring income**, which is income **that will not be repeated in the coming year** based on information provided by the family. **Income received as an independent contractor, day laborer, or seasonal worker is not excluded** from income under this paragraph, even if the source, date, or amount of the income varies. Nonrecurring income includes:
  - Payments from the U.S. Census Bureau for employment (relating to the decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.
  - Direct Federal or State payments intended for economic stimulus or recovery.



- Amounts directly received by the family as a result of State refundable tax credits or State tax refunds at the time they are received.
- Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

(25) Civil rights settlements or judgments, including settlements or judgments for back pay.

(26) Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

(27) Income earned on amounts placed in a family's Family Self Sufficiency Account.

Note | FSS is a program that enables HUD-assisted families to increase their earned income and reduce dependency on welfare assistance and rental subsidies. Goals are set that a family must work toward to graduate from the program. An interest-bearing escrow account is established by the PHA for each participating family. Any increases in the family's rent as a result of increased earned income during the family's participation in the program result in a credit to the family's escrow account. Once a family graduates from the program, they may access the escrow and use it for any purpose.

(28) Gross income a family member receives through self-employment or operation of a business; except that the following shall be considered income to a family member:

- Net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations; and
- Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

But Wait! There's More... [See (22) above] Excluded are "amounts that HUD is required by Federal statute to exclude from consideration as income for purposes of determining eligibility or benefits under a category

of assistance programs that includes assistance under any program to which the exclusions set forth in paragraph (b) of this section apply. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary". The list will include, at a minimum, updates made by HUD since the publication of Exhibit 5-1 in the 2013 Change 4 to the HUD Handbook 4350.3. Below is this updated list.

Also, [see (21) above] the regulation above requires that income for tribal members resulting from certain settlements be excluded. The specific settlements are listed in the federal exclusions list (see items 3, 4, 6, 7, 11, 15, 21, 24, and 26 for specific examples that likely fit the part (21) exception).





### Other Federal Exclusions [2024]

24 CFR 5.609(b) and (c) (updated on 1/31/2024)

- (1) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b)). *This exclusion also applies to assets*.
- (2) Payments, including for supportive services and reimbursement of out-of-pocket expenses, for volunteers under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5044(f)(1), 42 U.S.C. 5058), are excluded from income except that the exclusion shall not apply in the case of such payments when the Chief Executive Officer of the Corporation for National and Community Service appointed under 42 U.S.C. 12651c determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater (42 U.S.C. 5044(f)(1)). *This exclusion also applies to assets*.
- Note | This corrects an exception to payments, including for supportive services and reimbursement of out-of-pocket expenses, for volunteers under the Domestic Volunteer Service Act of 1973.
- (3) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)). *This exclusion also applies to assets*.
- (4) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 5506). *This exclusion also applies to assets*.
- (5) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f)(1)). *This exclusion also applies to assets*.
- (6) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94–540, section 6). *This exclusion also applies to assets*.
- (7) The first \$2000 of per capita shares received from judgment funds awarded by the National Indian Gaming Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, and the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands. This exclusion does not include proceeds of gaming operations regulated by the Commission (25 U.S.C. 1407–1408). *This exclusion also applies to assets*.
- (8) Amounts of student financial assistance funded under title IV of the Higher Education Act of 1965 (20 U.S.C.1070), including awards under Federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu).
- For section 8 programs only (42 U.S.C. 1437f), any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall not be considered income to that individual if the individual is over the age of 23 with dependent children (Pub. L. 109–115, section 327) (as amended)
- (9) Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056g).
- (10) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (Pub. L. 101–201) or any other fund established pursuant to the settlement in In Re Agent Orange Product Liability Litigation, M.D.L. No. 381 (E.D.N.Y.). *This exclusion also applies to assets*.
- (11) Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96–420 section 9(c)). *This exclusion also applies to assets*.
- (12) The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q).
- (13) Earned income tax credit (EITC) refund payments received on or after January 1, 1991, for programs administered under the United States Housing Act of 1937, title V of the Housing Act of 1949, section 101 of the Housing and Urban Development Act of 1965, and sections 221(d)(3), 235, and 236 of the National Housing Act (26 U.S.C. 32(I)). *This exclusion also applies to assets*. Please note: While this income exclusion addresses EITC refund payments for certain HUD programs, the exclusion in 26 U.S.C. 6409 excludes Federal tax refunds more



broadly for any Federal program or under any State or local program financed in whole or in part with Federal fund

### Note | This is a provision that applies only to specific HUD programs.

(14) The amount of any refund (or advance payment with respect to a refundable credit) issued under the Internal Revenue Code is **excluded from income and assets** for a period of 12 months from receipt (26 U.S.C. 6409).

Note | This adds the amount of any refund (or advance payment for a refundable credit) issued under the Internal Revenue Code is excluded from income and assets for 12 months from receipt.

- (15) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (Pub. L. 95–433 section 2). *This exclusion also applies to assets*.
- (16) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d)).
- (17) Any allowance paid to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802–05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811–16), and children of certain Korean and Thailand service veterans born with spina bifida (38 U.S.C. 1821–22) is *excluded from income and assets* (38 U.S.C. 1833(c)).

### Note | This adds allowance paid to children of certain Thailand service veterans born with spina bifida.

- (18) Any amount of crime victim compensation that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) under the Victims of Crime Act of 1984 received through a crime victim assistance program, unless the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime (34 U.S.C. 20102(c)). *This exclusion also applies to assets*.
- (19) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 reauthorized as the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. 3241(a)(2)).
- (20) Any amount received under the Richard B. Russell School Lunch Act (42 U.S.C. 1760(e)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC). *This also applies to assets*.
- (21) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (Pub. L. 101–503 section 8(b)). *This exclusion also applies to assets*.
- (22) Payments from any deferred U.S. Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts (42 U.S.C. 1437a(b)(4));
- (23) Any amounts (i) not actually received by the family, (ii) that would be eligible for exclusion under 42 U.S.C. 1382b(a)(7), and (iii) received for service-connected disability under 38 U.S.C. chapter 11 or dependency and indemnity compensation under 38 U.S.C. chapter 13 (25 U.S.C. 4103(9)(C)) as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111–269 section 2) to the definition of income applicable to programs under the Native American Housing Assistance and Self Determination Act (NAHASDA) (25 U.S.C. 4101 et seq.)
- Note | This corrects the exclusion of income applicable to programs under the Native American Housing Assistance and Self Determination Act (NAHASDA) to more accurately capture the language of 25 U.S.C. 4103(9). This is a provision that applies only to specific HUD programs.
- (24) A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled Elouise Cobell et al. v. Ken Salazar et al., 816 F.Supp.2d 10 (Oct. 5, 2011 D.D.C.), for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111–291 section 101(f)(2)). *This exclusion also applies to assets*.
- (25) Any amounts in an "individual development account" are **excluded from assets** and any assistance, benefit, or amounts earned by or provided to the individual development account are **excluded from income**, as provided by the Assets for Independence Act, as amended (42 U.S.C. 604(h)(4)).
- Note | This corrects that any assistance, benefit, or amounts earned by or provided to the individual development account are excluded from income, as provided by the Assets for Independence Act, as amended.



(26) Per capita payments made from the proceeds of Indian Tribal Trust Settlements listed in IRS Notice 2013–1 and 2013–55 must be *excluded from annual income* unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds. Such amounts received in excess of the Tribal Trust Settlement are included in the gross income of the members of the Tribe receiving the per capita payments as described in IRS Notice 2013–1. The first \$2,000 of per capita payments are also *excluded from assets* unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds (25 U.S.C. 117b(a), 25 U.S.C. 1407).

Note | This corrects that the first \$2,000 of per capita payments are also excluded from assets unless the per capita payments exceed the amount of the original Tribal Trust Settlement proceeds and are made from a Tribe's private bank account in which the Tribe has deposited the settlement proceeds.

(27) Federal assistance for a major disaster or emergency received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93–288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)). This exclusion *also applies to assets*.

(28) Any amount in an Achieving Better Life Experience (ABLE) account, distributions from and certain contributions to an ABLE account established under the ABLE Act of 2014 (Pub. L. 113–295.), as described in Notice PIH 2019–09/H 2019–06 or subsequent or superseding notice is *excluded from income & assets*.

Note | This adds the value of, distributions from, and certain contributions to Achieving Better Life Experience (ABLE) accounts established under the ABLE Act of 2014.

(29) Assistance received by a household under the Emergency Rental Assistance Program pursuant to the Consolidated Appropriations Act, 2021 (Pub. L. 116–260, section 501(j)), and the American Rescue Plan Act of 2021.

Note | This adds assistance received by a household from payments made under the Emergency Rental Assistance Program under the Consolidated Appropriations Act, 2021, and the American Rescue Plan Act of 2021.

End HOTMA and Other Federally Excluded List

### Checklist | Items Excluded from Both Income and Assets

Many sources of income under HOTMA may be exclude but may still represent an asset if the income is deposited into an asset that is not excluded. For instance, workers' compensation benefits are excluded. However, if the worker's comp benefits are placed into a checking account and remain in that account the day it is verified, the checking account is still an asset. Similarly, the value of a source of income may be excluded once placed in an excluded asset. Wages placed into an ABLE account represent income that disappears once it is in the ABLE account. Some monies are excluded from both income and assets. This checklist provides a list of items excluded from both income and assets. Below are quotes directly from HOTMA regulations.



### ■ Disability-related settlements

Income | 24 CFR 5.609(b)(7)

Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a member of the family becoming disabled.

Asset | 24 CFR § 5.603



Net family assets (3)(v) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability.

### ☐ Coverdell, Section 529, ABLE accounts, and baby bonds

Income | 24 CFR 5.609(b)(10)

Income and distributions from any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986 or any qualified tuition program under section 529 of such Code; and income earned by government contributions to, and distributions from, "baby bond" accounts created, authorized, or funded by Federal, State, or local government.

Income | Federal Register Notice 6410-N-01 Federally Mandated Exclusions from Income (28)

Any amount in an Achieving Better Life Experience (ABLE) account, distributions from and certain contributions to an ABLE account established under the ABLE Act of 2014 (Pub. L. 113–295.), as described in Notice PIH 2019–09/H 2019–06 or subsequent or superseding notice is excluded from income and assets. Asset | 24 CFR § 5.603 Net family assets (3)(vi)

The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government.

**Note** | ABLE accounts are not listed in the income exclusion in HOTMA, although HUD does include it in the income exclusions based on other federal laws. On the other hand, HUD did include ABLE accounts in the asset exclusions. According to HUD, this was because the income exclusions are more complicated, and HUD refers to MFH Notice 2019–06 for a more detailed description of HUD ABLE polices.

### ☐ IRS-recognized retirement accounts

Income | 24 CFR 5.609(b)(26)

Income received from any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals; except that any distribution of periodic payments from such accounts shall be income at the time they are received by the family.

Asset | 24 CFR § 5.603 Net family assets (3)(iii)

The value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals.

### ☐ Tax return or refundable tax credits

Income | 24 CFR 5.609(b)(24)(iv)

Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.

Federal Register Notice 6410-N-01 Federally Mandated Exclusions From Income (14)

The amount of any refund (or advance payment with respect to a refundable credit) issued under the Internal Revenue Code is excluded from income and assets for a period of 12 months from receipt (26 U.S.C. 6409).

Asset | 24 CFR § 5.603 Net family assets (3)(xi)

Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

### □ Federally excluded assets

As listed above, HUD published a list of federally excluded income exclusions that are complementary to the HOTMA regulatory exclusions. For instance, benefits under the Food Stamp Act have been excluded from income for years. However, now that the value of food stamps is generally deposited onto debit cards, the question may have arisen as to whether the cards are assets (since other benefit debit cards are). *Of the federally excluded list, twenty-three of the twenty-nine listed items are excluded from both income and assets.* See our summary of this list, in the section "Other Federal Exclusions [2024]" immediately preceding this section.



### **Details by Income Type**

### **ABLE** accounts

24 CFR 5.609(b)(22), Joint HOTMA Notice 2023-10 G.17, Notice H 2019-06/PIH 2019-09

"ABLE accounts are excluded from the definition of net family assets, and therefore income generated from such accounts is not considered when calculating income from assets. Distributions from these accounts are also excluded from income. HUD developed specific guidance on ABLE accounts based on language included in the ABLE Act of

2014. Certain contributions deposited into ABLE accounts are excluded in addition to the above-mentioned exclusions." The following example was developed based on the guidance in the notice.

### Example

### ABLE Accounts - Income and Assets

Gordy has wages deposited into an ABLE account. He chooses to put some additional wage money into the account. His employer contributes funds to the ABLE account in addition Gordy's wages. Relatives provide a recurring gift of \$100/month to Gordy and also deposit \$100/month in the ABLE Account.



$\Box$	Gorday's <b>wage income is included in income</b> .
	The <i>employer contributions to the ABLE account</i> are <i>excluded</i> as income.
	The <b>ABLE account</b> is <b>not an asset</b> .
	Withdrawals from the ABLE account are not income.
	The <i>direct gift income</i> from Gordy's relatives <i>is income</i> .
	The deposits to the ABLE account from reletives are not income.

### **Alimony**

Joint HOTMA Notice 2023-10 J.1

"Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but did not. For example, a family's *child-support or alimony income must be based on payments received, not the amounts the family is entitled to receive* based on any court or agency order. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family." See also *Child Support or Alimony* below.

### **Annuities**

HUD 4350.3 5-7 G.2

Annuities are not recognized by the IRS as retirement account, unless the annuity is a component of an account that is on the IRS' list of recognized accounts, such as a 401(k) (see *Retirement Accounts* below for the IRS' list and helpful links). Annuities will generally be treated as an asset or an income stream, depending on whether the holder of the annuity has access to a balance or not.



### **Benefit income**

### Terms Defined

24 CFR 5.100 Earned Income

**Transfer Payments | "**Payments made, or income received in which no goods or services are being paid for, such as welfare assistance, Social Security, and other governmental subsidies/benefits."

### **Child support or Alimony**

Joint HOTMA Notice 2023-10 J.1

"Annual income includes "all amounts received," not the amount that a family may be legally entitled to receive but did not. For example, a family's *child-support or alimony income must be based on payments received, not the amounts the family is entitled to receive* based on any court or agency order. A copy of a court order or other written payment agreement alone may not be sufficient verification of amounts received by a family."

It matters because...

Before HOTMA, families potentially subject to child support were subject to various degrees of additional examination because of HUD's requirement that court-ordered child support/alimony be counted if not pursued in some cases. No other court order-related income is dealt with this way. Now that that requirement is gone, the need to ask about court orders no longer exists. As child support rules have a disparate impact on families with children, a protected class under the Fair Housing Act, holding to the old rules when they no longer federally apply poses significant Fair Housing risk. Some state agencies and owner/agents/investors may still want divorce decrees for other reasons, but the child support/alimony issue should be removed from the list of reasons. Then it should be considered if the other things potentially revealed by a divorce decree are already sufficiently asked about on the application/questionnaire [such as jointly held assets and placement of children]. If these questions are asked and answered like a host of other potential income and asset sources, is further examination truly necessary and desirable?

Calculations for sporadic support income. HUD Management Occupancy Reviews (MOR) conducted in many areas across the country have recently been indicating that a recent sampling (such as the most recent three months) should be used when determining an average for sporadic child support or alimony received. The concept appears to be that a more recent sampling is fairer than using numbers from months ago that may not reflect current patterns. This is not in writing that any Contract Administrator or HUD has shown, but the standard has been very consistently applied. State LIHTC agencies may provide policy on this matter. Three, six, or twelve month averages are common options. Other states allow this matter to be up to owner/agents.



### Audit Tips

- □ Determine if the application ask if child support or alimony is being received. Additional questions/questionnaires and forms with respect to court orders are no longer necessary. This should be treated like all other income asked about and verified if disclosed by a household.
  - A court order/divorce decree may be supplied by a household to verify child support or alimony if the full amount is being received but should not be expected as a routine requirement. Also, a decree is not relevant if the household is receiving more or less than the ordered amount.
  - Determine if the state LIHTC agency has a standard for how much of a sampling going back to use to average child support or alimony.

### **Employment**

Joint HOTMA Notice 2023-10 J.1

### Garnishment

"When a family member's wages or benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other applicable debts, PHAs/MFH Owners must use the gross amount of the income,



prior to the reduction, to determine a family's annual income." This is in contrast to child support or alimony, for instance, where only amounts received are counted.

### **Paystubs**

A minimum of two paystubs are required by HOTMA. An owner/agent may develop a policy to collect more as a matter of course or depending on circumstances. As the year progresses, year-to-date may supplement the stubs gathered.

The primary methods of documenting anticipated ("current") income are Upfront Income Verification (UIV) such as EIV and the Work Number or paystubs. Also, verification of employment is only sought when necessary. The most acceptable sources do not reveal negotiated union increases or other known and verifiable raises. It is clearly not required to verify anticipated changes with a third party, but the household must be required to reveal any known increases of income.



### **Audit Tips**

- Establish that the application/ questionnaire asks about future changes to income known to the family.
  - ☐ If a known change is listed by the family, it should be verified.

### Gig income [Uber, Lyft, etc.]

See Self-Employment below.

### Military pay and veteran's benefits

24 CFR §5.609(b)(11) and 24 CFR §5.609(b)(16) and (17)

**Hostile fire** pay continues to be excluded, as do **deferred veteran's benefits** paid in a lump sum or in installments. 24 CFR §5.609(b)(11)

"Payments to veterans in need of regular aid and attendance are excluded from annual income under 38 U.S.C. 1521. This income exclusion *applies only to veterans* in need of regular aid and attendance and *not to other beneficiaries of the payments, such as a surviving spouse."* 

"Aid and attendance" payments are distinct from payments made to veterans under other VA programs, including the Veterans Pension program. PHAs/MFH Owners should carefully review any income documentation provided by the family, because many types of VA income, including the Veterans Pension and the VA Survivors Pension, are included in annual income."





### Audit Tips

- If aid and attendance is being received, determine if it is for a veteran or a survivor or dependent to establish if it must be excluded.
- ☐ **Paystubs** for military pay are called *Leave and Earnings Statements*. These are subject to the HOTMA two stub minimum and owner/agent policy.

### Nonrecurring income

Joint HOTMA Notice 2023-10 G.1

The nonrecurring income exclusion replaces the former exclusion for temporary, nonrecurring, and sporadic income (including gifts), but it provides a narrower definition of excluded income in contrast to the former broad



exclusion of temporary, nonrecurring, or sporadic income." *Important note: Sporadic income, if repeated more than once, and not otherwise "nonrecurring" is now counted.* 

"Nonrecurring" income fits two types. The *first* type includes examples specifically defined in the HOTMA regulation. The *second*, broader, type is income that may continue into the year but has a discreet end date during the upcoming certification year and will not be repeated in following years.

"PHAs/MFH Owners may accept a self-certification from the family stating that the income will not be repeated in the coming year."

### 1. Regulatory examples of "nonrecurring" income

### 24 CFR 5.609(b)(22)

- Payments from the *U.S. Census Bureau* for employment (relating to the decennial census or the American Community Survey) lasting no longer than 180 days and not culminating in permanent employment.
- Direct Federal or State payments intended for economic *stimulus or recovery*.
- Amounts directly received by the family as a result of **State refundable tax credits or State tax refunds** at the time they are received.
- Amounts directly received by the family as a result of Federal refundable tax credits and Federal tax refunds at the time they are received.
- Gifts for holidays, birthdays, or other significant life events or milestones (e.g., wedding gifts, baby showers, anniversaries).
- Non-monetary, in-kind donations, such as food, clothing, or toiletries, received from a food bank or similar organization.
- Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings.

### 2. Income to end during the upcoming year

Joint HOTMA Notice 2023-10 G.1

Income that will not be repeated **beyond** the coming year (i.e., the 12 months following the effective date of the certification), based on information provided by the family, is considered nonrecurring income and is excluded from annual income. However, income received as an independent contractor, day laborer, or seasonal worker is not excluded from income under § 5.609(b)(24), **even if the source, date, or amount of the income varies**.

Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. This does not include unemployment income and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year that can be extended.

Income amounts excluded under this category may include, but are not limited to, nonrecurring payments made to the family or to a third party on behalf of the family to assist with utilities, eviction prevention, security deposits to secure housing, payments for participation in research studies depending on the duration, and general *one-time* payments received by or on behalf of the family."

It matters because...

More, and less, income will be counted under the "nonrecurring" concept as compared to the pre-HOTMA era. Sporadic income will now be counted, when it was not previously. On the other hand, income that is going to be received for part of the upcoming year, but will end and not be repeated, will be excluded. This would have been counted in the past.

### **Self-employment**

24 CFR 5.609(b)(24) and 5.609(b)(28), Joint HOTMA Notice 2023-10 G.19

Counting net income from a business has not changed from pre-HOTMA rules.

Joint HOTMA Notice 2023-10 F.2.b

Gig income is generally based on an online system of allowing a person to engage for individual jobs such as Uber, Lift, or Grub Hub or through online marketplaces to sell services or goods like Fiverr or eBay. Babysitters, landscapers, rideshare drivers, and house cleaners also are similar traditional income streams. Gig income and other similar income results in a person being an independent contractor and is not "nonrecurring." This income may be sporadic



but is not excluded as "nonrecurring." Of course, most self-employment is technically sporadic, and has been counted in the past, so this just continues HUD policy for net income from a business.

### It matters because...

There are hundreds of examples of gig income, and these are becoming increasingly common among the population in general, including residents of affordable housing. It may even be more prevalent there, because residents may may see more benefit in supplementing low income. Residents may minimize the impact of gig income in their minds because the amounts are individually small and sporadic, so careful questions need to be asked.

### **How to Verify Self-Employment Income**

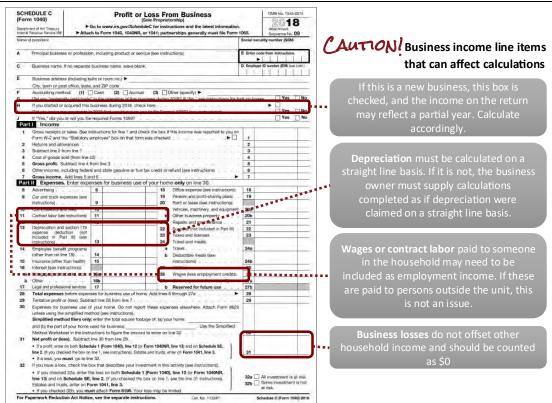
- ☐ Financial statement(s) from the business
- ☐ Signed statements from the business owner [perhaps in a form designed by the owner/agent]
- ☐ Completed IRS 1040 Schedules C, E and F, if available
  - C = Business Income
  - E = Rental Income or shares in a corporation
  - F = Farm Income

### **Audit Tips**



- ☐ Establish if gig income (perhaps with examples like "Uber, Lift, eBay, etc.") clearly mentioned in the application, perhaps as an example of self-employment. It may be helpful to mention that these need to be disclosed, even if sporadic.
- If tax returns are used, locate "returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (such as the tax preparer's transmittal receipt, a summary of transmittal from online source, etc.)."
- Returns are not due until April of the following year, with an automatic extension to October allowable. Many small business owners and gig workers have not had the opportunity to file when being certified or they may simply have not filed. It is even possible that they are not required to file. In that case, the first two options above, and perhaps substantiating receipts should be found in the file.

### Infographic | Small Business Schedule C





When reviewing tax forms, there may be issues that must be examined that may affect the income determination. Below demonstrates some of these, using Schedule C as an example.

### Social security

### **COLAs**

Joint HOTMA Notice 2023-10 B.2

"Cost of Living Adjustments (COLA) to Social Security income and Social Security disability income are always considered changes to income because the COLA is an adjustment that automatically occurs annually by law." Although not stated here, the overall HOTMA guidance indicates that the COLA should always be implemented once published for initial income determinations.

Joint HOTMA Notice 2023-10 B.3

"Effective the day after SSA has announced the COLA, PHAs/MFH Owners are required to factor in the COLA when determining SS and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year.



### **Audit Tips**

Deferred payments. HOTMA specifically excludes these.   See 24 CFR 5.609(b)(16)
Adjustments for Prior Overpayment. HUD's long-standing instructions to count Social Security
payments after any adjustment for prior overpayments agrees with HOTMA's standard to generally
only count "amounts received" and still applies.   See HUD 4350.3 5-6 J
Benefits spit by court-order. These also fit the above logic.   See HUD 4350.3 5-6 L 4 and 5
Garnishments for child support or alimony owed. Using HOTMA employment policy as a standard,
these should not be subtracted from the Social Security income.   Joint HOTMA Notice 2023-10 J.1

### Student financial income

### **Section 8 recipients**

Joint HOTMA Notice 2023-10 G.16.d, footnote G6

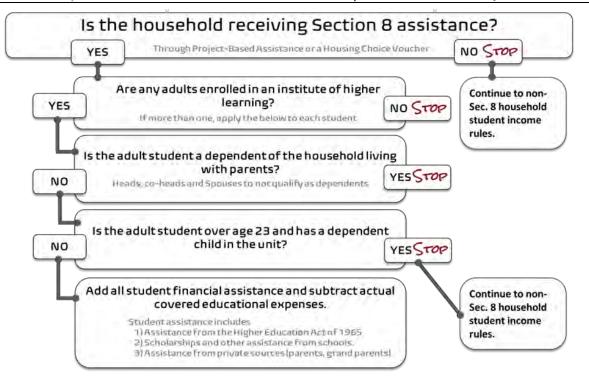
Traditionally, student assistance was excluded for all but Section 8 assistance recipients. HOTMA includes a new rule that would apply to all families. However, there is some remaining language in annual appropriations law that HUD has determined requires that Section 8 recipients be handled as they have been traditionally until such time as the language changes in the law. This means that student assistance for Section 8 assisted families will be counted as it has been, with two exceptions.

### Checklists | Section 8 Student Income Rule After HOTMA

# Differences as compared to pre-HOTMA student income rules Adult students over age 23 with a dependent child used to be exempt from counting student income. Now, they will be treated as non-Section 8 recipients under the HOTMA student assistance rule. Covered educational expenses are not just for tuition and fixed fees, but rather are for all covered educational expenses, as under the HOTMA rule. Higher Education Act of 1965 (HEA) income is counted as student assistance for the Section 8 rule. It is never income for the HOTMA rule. Income from private sources (such as parents and grandparents) is counted as student financial assistance for Section 8 recipients. It is simply periodic income for the HOTMA student income rule. Note: For both Section 8 and HOTMA student income rules, scholarships and grants are counted as student assistance.



### Chart | Student Financial Assistance | Section 8 Recipients



### **Non-Section 8 recipients**



NOTE | Word of warning! The HOTMA student assistance income rule probably represents the biggest risk for noncompliant households as we adjust to HOTMA. This rule is so much broader than pre-HOTMA in that it applies to all households, rather than just households that receive Section 8 assistance. It also will tend to include more income than the former student assistance rule.

**Student Assistance Type 1** For non-Section 8-assisted households, any assistance under Title IV, 479B of the Higher Education Act of 1965 (HEA), as amended, is excluded from income. However, it must be applied to expenses when determining if any Type 2 Student Assistance exceeds expenses.

Note | Below is a list of HEA Title IV programs. There may be sub-programs: ☐ Grants to Students in Attendance at Institutions of Higher Education □ Federal Pell Grants ☐ Federal early outreach and student services programs Federal TRIO Programs Gaining Early Awareness and Readiness for Undergraduate Programs Model Program Community Partnership and Counseling Grants National Student Savings Demonstration Program ☐ Federal supplemental educational opportunity grants ☐ Leveraging educational assistance partnership program ☐ Special programs for students whose families are engaged in migrant and seasonal farmwork ☐ Robert C. Byrd honors scholarship program ☐ Childcare access means parents in school □ Teach grants ☐ Scholarships for veteran's dependents ☐ Federal Family Education Loan Programs ☐ Federal Work-Study Programs ■ William D. Ford Federal Direct Loan Program

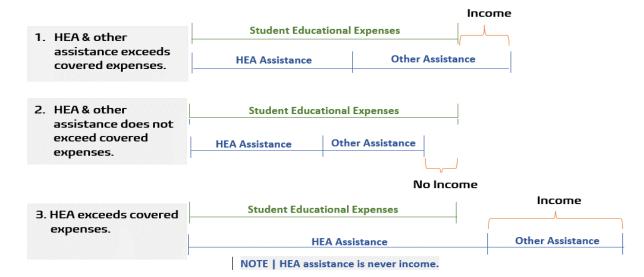


Ц	Federal	ins Loans			
	Higher I	Education Relief Opportunities for Students			
	1	Note that on July 1, 2024, the following was added when an HEA amendment takes effect.			
	Section	134 of the Workforce Innovation and Opportunity Act (WIOA). This includes income earned in			
	employ	ment and training programs including: workforce investment activities for adults and workers			
	dislocat	ed as a result of permanent closure or mass layoff at a plant, facility, or enterprise, or a natural or			
	other di	saster that results in mass job dislocation, to assist such adults or workers in obtaining			
	reemplo	pyment as soon as possible.			
Stı	udent A	ssistance Type 2   Student financial assistance for tuition, books, and supplies (including supplie			
and	d equipm	ent to support students with learning disabilities or other disabilities), room and board, and other fee			
req	uired and	d charged to a student by an institution of higher education (as defined under Section 102 of the Highe			
Edι	ucation A	ct of 1965) and, for a student who is not the head of household or spouse, the reasonable and actua			
cos	ts of hou	sing while attending the institution of higher education and not residing in an assisted unit.			
	Student	financial assistance means a grant or scholarship received from—			
		The Federal government			
		A State, Tribe, or local government			
		A private foundation registered as a 501(c)(3) nonprofit			
		A business entity (such as a corporation, general partnership, limited liability company, limited			
		partnership, joint venture, business trust, a public benefit corporation, or nonprofit entity)			
		An institution of higher education.			
	Student	financial assistance does not include—			
		Any assistance that is excluded pursuant to the HEA Title IV, 479B (see above)			
		Financial support provided to the student in the form of a fee for services performed (e.g., a work			
		study or teaching fellowship that is not excluded pursuant to the HEA Title IV 479B)			
		Gifts, including gifts from family or friends, or			
		Any amount of the scholarship or grant that, either by itself or in combination with assistance			
		excluded under this paragraph or the HEA 479B (see above), exceeds the actual covered costs of the			
		student. The actual covered costs of the student are the actual costs of tuition, books, and supplies			
		(including supplies and equipment to support students with learning disabilities or other disabilities),			
		room and board, or other fees required and charged to a student by the education institution, and,			
		for a student who is not the head of household or spouse, the reasonable and actual costs of housing			
		while attending the institution of higher education and not residing in an assisted unit.			
		financial assistance must be expressly:			
		for tuition, books, room, and board, or other fees required and charged to a student by the			
		educational institution			
		to assist a student with the costs of higher education, or			
		to assist a student who is not the head of household or spouse with the reasonable and actual costs			
		of housing while attending the educational institution and not residing in an assisted unit.			
L		financial assistance may be paid directly to the student or to the educational institution on the			
		's behalf. Student financial assistance paid to the student must be verified by the responsible entity as			
_		financial assistance.			
		he student is also receiving assistance excluded under HEA Title IV 479B (see above) the amount of			
		financial assistance that must be counted is determined by adding the HEA 479 B assistance to the			
	_	sistance.			
		If the amount of the HEA 479B assistance excluded above is equal to or exceeds the actual covered			
	_	costs, all of the other assistance is counted as income.			
	ш	If the amount of HEA 479B assistance excluded above is less than the actual covered costs, the			
		amount of assistance that is considered student financial assistance is the amount by which the			
		actual covered costs exceed both types of student assistance.			

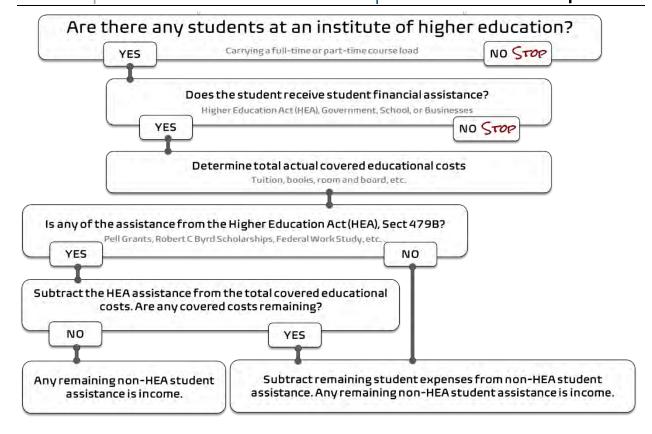


### Chart | HEA and Other Assistance | Non-Section-8 Recipients

- 1. If a student does not have Type 1 [HEA] student assistance
  - Total covered educational expenses
  - student assistance Type 2
  - = Counted student assistance (if negative). No income, if positive.
- 2. If the student has Type 1 [HEA] and Type 2 student assistance, there are three possibilities.



### Chart | Student Financial Assistance | Non-Section-8 Recipients





### Example

Student Financial Assistance | Section 8 vs. Non-Section 8 Households (Example Type 2)

The household pays for its schooling in the following ways.

A Pell Grant \$ 10,000

A scholarship from a local business: \$ 6,000

Parents outside the household \$ 20,000

Total covered education expenses \$ 29,000

Income of Section 8-assisted Household \$ 7,000 | \$29,000 - \$6,000 - \$20,000 = \$7,000 | \$29,000 - \$10,000 - \$6,000 = \$0 + \$20,000 | \$29,000 - \$10,000 - \$6,000 = \$0 + \$20,000 | No student financial income but all of the gift income

### **Transfer payments**

See Benefit Income above.

### Trust accounts [outside control of a family]

See also Trust accounts [under control of the family] in the Asset section below.

All trusts, including special needs trusts, are handled in the same manner. An irrevocable trust will be outside the control of a family, but a revocable trust may also be if it is being administered by a person outside of the family. The key is now the phrase "outside control of the family," not "revocable" or "nonrevocable."

24 CFR § 5.609(b)(2) 2024 | Joint HOTMA Notice 2023-10 F.4.d

A trust is an account in which a bank or a custodian holds funds for a specific purpose. Whether the value of a trust count is a net family asset and whether distributions from the trust count as annual income to the family depends on the following three factors:

- ☐ Whether the trust is under the control of the family
- ☐ Whether distributions are made from the trust's principal
- ☐ The purpose of any distributions made from income earned by the trust.

For an *irrevocable trust or a revocable trust <u>outside the control of the family</u> or household excluded from the definition of net family assets in the HUD regulation § 5.603(b)* 

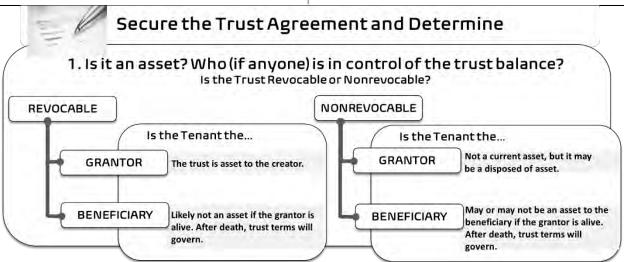
- (A) Distributions of the principal or corpus of the trust; and
- (B) Distributions of income from the trust when the distributions are used to pay the costs of health and medical care expenses for a minor.

Joint HOTMA Notice 2023-10 F.4.a Footnote F3

"A disposition in trust is when the family creates a trust for the benefit of someone outside of the assisted family. It would not be considered an asset disposed of for less than fair market value if the family establishes a nonrevocable trust for the benefit of someone in the assisted family." The same applies when assets are put into a retirement account in the name of a household member.



### Chart | Trusts



- 2. Does the trust provide periodic distributions? If so, who receives them?

  Can be the grantor or the beneficiary.
- · If a household has control of the asset, income from the asset is counted as it is earned by the trust.
- If a household has no control of the asset, any disbursements are income to the recipient(s) except:
  - 1. Distributions from the principle or corpus of the trust.
  - 2. Distributions used to pay for the health and medical expenses for a minor child.

From the Georgia LIHTC/HOME Compliance Manual, developed with Costello Compliance

### **Unemployment benefits**

24 CFR 5.609(b)(24) and CFR 891.105, Joint HOTMA Notice 2023-10 G.1

Regular unemployment payments are not "nonrecurring" even though they may end during the upcoming year. "Income that has a discrete end date and will not be repeated beyond the coming year during the family's upcoming annual reexamination period will be excluded from a family's annual income as nonrecurring income. *This does not include unemployment income* and other types of periodic payments that are received at regular intervals (such as weekly, monthly, or yearly) for a period of greater than one year *that can be extended*."

# Community Affairs | Technical Guidance LIHTC & HOME Compliance Manual

### **Veteran's benefits**

See Military pay and veteran's benefits, above.



### Chart | Summary of Asset Exclusions

from HUD PIH guidance

Category	Excluded Asset	Example(s)	Notes
Personal property	Necessary items of personal property	Medical devices, vehicle for commute	Determining what is a "necessary item" for personal property is a highly fact-specific determination.  Additional guidance is forthcoming from HUD.
Personal property	Non-necessary items of personal property if the combined total value does not exceed \$50,000*	Vintage baseball cards, recreational boat, coin collection, art so long as the <i>total</i> value is under the limit	This matches the value of assets that can be self-certified by the family.
Savings account	Retirement account recognized by IRS	IRA, 401(k), 401(b) and retirement plans for self-employed individuals	
Real property	Real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located	Property subject to a lawsuit may be legally restricted from sale.	Such property does not count against the dollar amount limit or the real property limitation
Cash	Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member, for an incident resulting in a disability	A drunk driver injures a family member, who then has a disability. The family sues, and the driver's insurance pays the family.	
Savings account	The value of certain education or disability support savings accounts	Under Internal Revenue Code sections 529, 529A, 530, "baby bond" accounts	Coverdell accounts, tuition programs, any "baby bond" account created, authorized, or funded by Federal, state, or local government
Real property	Interest in Indian trust land	Family has interest in land held in trust by Bureau of Indian Affairs	Existing exclusion
Real property	Equity in a manufactured home where the family receives assistance under 24 CFR 982	HCV Manufactured Home Space Rental participants	
Real property	Equity in property where the family receives assistance under 24 CFR 982	HCV homeownership participant	For real property other than manufactured homes
Savings account	Family Self-Sufficiency (FSS) accounts		The family does not have access to FSS funds during their participation in the program. Also excluded from income.
Cash	Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family	Earned Income Tax Credits (EITC)	
Trust Funds	Trust that is not revocable by, or under the control of, any member of the family or household	Non-revocable trust fund; trust fund revocable once minor child reaches age 21	As long as a trust meets this definition, it is not an asset of the family



#### **Net Family Assets Include...**

24 CFR § 5.609 (b) Net Family Assets

Net family assets is the net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment.

#### Assets Disposed of...

24 CFR § 5.609 (b)(2) Net Family Assets

In determining net family assets, PHAs or owners, as applicable, must include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (but *not in a foreclosure or bankruptcy sale*) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms. Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investments from family assets."

#### **Imputed Asset Income**

24 CFR 5.609(a)(2)

When net family assets are valued over \$50,000 (as adjusted by inflation) and actual returns on specific assets cannot be calculated, imputed returns are included in income. All actual returns that can be calculated continue to be included in income.

### **Asset Exclusions...** (The 11 Exclusions) (Full text from the regulation)

24 CFR § 5.603(b) definition "Net Family Assets"

Excluded from the calculation of net family assets are:

- (1) The value of *necessary items of personal property*.
- (2) The combined value of all *non-necessary items of personal property* if the combined total value does not exceed \$50,000 (adjusted for inflation based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W)).
  - Note | In the HOTMA Notice 2023-10, Table F1, HUD has provided examples of the difference between "necessary" and "non-necessary" items of personal property from [1] & [2]. [2] above.
- (3) The value of any account under a *retirement plan recognized as such by the Internal Revenue Service*, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals.
- (4) The value of *real property that the family does not have the effective legal authority to sell* in the jurisdiction in which the property is located.
- (5) Any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person with a disability.
- (6) The value of any Coverdell education savings account under section 530 of the Internal Revenue Code of 1986, the value of any qualified tuition program under section 529 of such Code, the value of any Achieving a Better Life Experience (ABLE) account authorized under Section 529A of such Code, and the value of any "baby bond" account created, authorized, or funded by Federal, State, or local government.
  - Note | According to HUD, baby bonds are "money held in trust by the government for children until they are adults." These "are being authorized in various States and localities in an effort to combat the wealth gap and address systemic poverty."
- (7) Interests in Indian trust land.
- (8) Equity in a manufactured home where the family receives assistance under 24 CFR part 982.



(9) Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR part 982.

Note | The above two provisions relate to Housing Choice Vouchers that assist manufactured and other homeowners.

(10) Family Self-Sufficiency Accounts.

Note | FSS is a program that enables HUD-assisted families to increase their earned income and reduce dependency on welfare assistance and rental subsidies. Goals are set that a family must work toward to graduate from the program. An interest-bearing escrow account is established by the PHA for each participating family. Any increases in the family's rent as a result of increased earned income during the family's participation in the program result in a credit to the family's escrow account. Once a family graduates from the program, they may access the escrow and use it for any purpose.

(11) Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.

Note | The HOTMA Notice 2023-10 F.4.e [as updated in February 2024] instructs us to subtract the value of any tax return that a household has received in the last 12 months from total net assets.

### Three Main Types of Assets

**HUD Joint HOTMA Notice 2023-10 F.4.c.** 

Under HOTMA, assets are broken down into three types.

#### Type of asset

#### How treated

1   Necessary personal pro	perty [NPP]	Value is excluded.
2   Non-necessary persona	I property If totals asset threshold	Value is excluded, actual income is included.
[NNPP]	If total exceed asset threshold	Value and actual income are included.
3   Real Property		Value and actual income are included.

### Checklist | Three Asset Rules with One Asset Thresholds (\$50,000, as adjusted)

Many people assume that the \$50,000 asset threshold (adjusted for inflation) relates to one rule. In fact, it relates to three.

#### Based on total net asset value

- When self-certification is allowed
- $oldsymbol{\square}$  When asset income must be imputed

#### Based on total net non-necessary personal property

☐ When non-necessary personal property is excluded





### Checklist | Three-Step Approach to Addressing Asset Income

Examine household self-certification of asset values and income collected during the application process. Identify the three asset types listed:

- [1] necessary personal property [2] non-necessary personal property [NNPP] [3] real property.
- Step 1 Address Necessary Personal Property (asset type #1)
  Identify and exclude any necessary personal property or excluded assets listed by the household.

#### Step 2 Address Non-Necessary Personal Property (asset type #2)

Based on self-certification, determine *if the value of all non-necessary personal property exceeds* the asset threshold.

- If yes | Since non-necessary personal property alone totals over the asset threshold, total net assets exceed the threshold. Verify all non-necessary and real property values and income with 3<sup>rd</sup>-party documentation. List each asset's value and actual income on the TIC.
- If no | List each non-necessary personal property asset as \$0 on the TIC (if instructed to do so by the state HFA) but include actual income for each.

#### Step 3 Address Real Property (asset type #3)—and Imputed Asset Income, if applicable

Add the value of any real property to the non-necessary personal property (as counted in step 2) and determine if total net household assets exceed the asset thresholds.

- Note | If a tax refund or refundable credit was received in the last 12 months, subtract this amount from the value of total net assets before determining the above.
- If yes | Verify all asset values and income with 3<sup>rd</sup>-party documentation (to the extent not already done per Step 2. Impute income on non-financial account assets that have income that cannot otherwise be determined and add it to other income.
- If no | Use self-certification to verify asset values and income if allowed by company policy (for HUD-funded properties only: except every 3<sup>rd</sup> year when full verification is required). Do not impute asset income on any assets.

#### **Details by Asset Type**

#### **ABLE accounts**

See ABLE Accounts in the Income section above.

#### **Annuities**

HUD 4350.3 5-7 G.2

Annuities are not recognized by the IRS as retirement account, unless the annuity is a component of an account that is on the IRS' list of recognized accounts, such as a 401(k) (see *Retirement Accounts* below for the IRS' list and helpful links). Annuities will generally be treated as an asset or an income stream, depending on whether the holder of the annuity has access to a balance or not.

#### Checking, savings and other financial accounts

Joint HOTMA Notice 2023-10 Table Atachment J

When verification of assets is required, Owners are required to obtain a one statement that reflects the current balance of banking/financial accounts. Owners were previously required to average the balance of six checking account statements to determine the cash value of a checking account.

#### Debit cards and other internet assets

Per long standing HUD instructions, these are assets. HOTMA guidance on Go Fund Me accounts indicates that these assets that only exist on the internet are assets.



#### **Disposed assets**

Joint HOTMA Notice 2023-10 F.4.a, and Footnote F2

#### **Assets Not Disposed**

Retirement Accounts. "An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value." | Trusts. "A disposition in trust is when the family creates a trust for the benefit of someone outside of the assisted family. It would not be considered an asset disposed of for less than fair market value if the family establishes a nonrevocable trust for the benefit of someone in the assisted family." | Divorce or separation settlement. "In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms."

#### Imputed asset income

Joint HOTMA Notice 2023-10 F.6.a & b

Imputed income from assets is no longer determined based on the greater of actual or imputed income from the assets. Instead, imputed asset income must be calculated for specific assets when three conditions are met:

The value of net family assets exceeds \$50,000 (as adjusted for inflation).

☐ The specific asset is included in net family assets.

☐ Actual asset income cannot be calculated for the specific asset.

"If the actual income from assets can be computed for some assets but not all assets, then PHAs/MFH Owners must add up the actual income from the assets, where actual income can be calculated, then calculate the imputed income for the assets where actual income could not be calculated. After the PHA/MFH owner has calculated both the actual income and imputed income, the housing provider must combine both amounts to account for income on net family assets with a combined value of over \$50,000" as adjusted.

When the family's net family assets do not exceed \$50,000 (as adjusted for inflation), imputed income is not calculated. Imputed asset income is never calculated on assets that are excluded from net family assets. When actual income for an asset — which can equal \$0 — can be calculated, imputed income is not calculated for that asset.

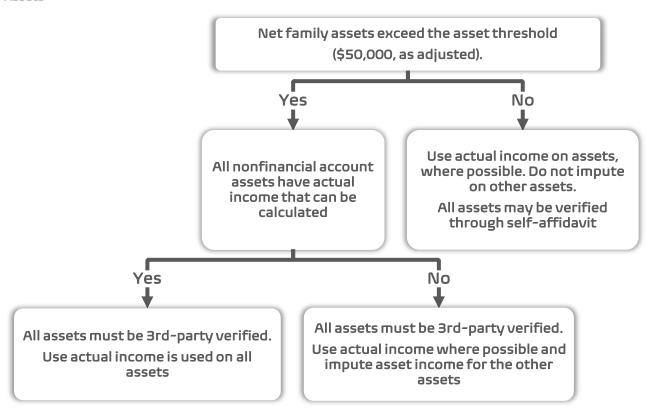
"PHAs/MFH Owners should not conflate an asset with an actual return of \$0...with an asset for which an actual return cannot be computed, such as could be the case for some non-financial assets that are items of non-necessary personal property. *If the asset is a financial asset and there is no income generated* (for example, a bank account with a 0 percent interest rate or a stock that does not issue cash dividends), then *the asset generates zero actual asset income, and imputed income is not calculated*. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is consistently \$0."

Passbook savings rate. "HUD will annually publish a passbook rate based on the Federal Deposit Insurance Corporation (FDIC) National Deposit Rate for savings accounts, which is an average of national savings rates published on a monthly basis. PHAs/MFH Owners must use the HUD-published passbook rate when calculating imputed asset income for net family assets that exceed \$50,000 (a figure that is annually adjusted for inflation). The HUD-published passbook rate will be posted to a dataset on the HUD User Web site, alongside annual inflationary adjustments."



### Chart | Imputing Asset Income

Adapted from Joint HOTMA Notice 2023-10 Chart F1: Decision Chart for Determining Income from Assets



#### **Internet-based assets**

Joint HOTMA Notice 2023-10 Example G4: Lump-Sum Additions to Net Family Assets, Example B3: Calculating Annual Income at Annual Reexamination.

Many people today benefit from crowd-funding accounts such as GoFundMe. With these accounts, friends, family, and even strangers on the internet can contribute to a person's fund. As we enter the HOTMA era, the question is raised if this personal donation funding represents income, an asset, or both for applicants and residents of affordable housing. HOTMA implementation guidance indicates that it depends on whether the fund is *one-time and nonrecurring*, or *repeated*. Following are examples adapted from the Joint HOTMA Notice that help explain the correct approach.





### Example

Year one...

Logan fundraises \$5,000 online to help pay for personal expenses through GoFundMe. The manager verified with Logan that this was a one-time solicitation for donations of cash and that Logan did not intend this to be a recurring source of income. The \$5,000 is a one-time, lump-sum addition to net family assets and should not be included in the annual income calculation.

Year two...

At the next annual reexamination, the manager determined that Logan solicited donations online a second time and raised an additional \$4,500. Again, Logan certified that he does not intend for this to be a recurring source of income, but, because the manager can establish a pattern, the \$4,500 is not considered a lump-sum addition to net family assets and should be included in the annual income calculation.

Year three...

Logan must self-certify that he hasn't solicited funds online and doesn't plan to in the following year. He must also provide records from the account that documented no fundraising activity in the prior 12-month period. If these requirements are met, no income will be counted.

Note: The example above reveals the repeated funding through recertification. The owner/agent will not have this luxury at the initial certification, and asking helpful questions about the fund's history and verifying the answers as necessary will be important.



#### **Audit Tips**

Establish if the applications/questionnaires asks if the applicant or tenant has access to a crowd
funded internet accounts, such as GoFundMe or similar.

If so, determine if the application/questionnaires or alternative follow-up asks if it has historically
been funded for multiple rounds. It is a

Ш	<b>Lump-sum asset</b> if the account has been funded for one round, and the owner does not intend to
	repeat the funding.

Income if it has been funded more than once in the past year. The proceeds must be counted as
income and not an asset.

#### Jointly held assets

Joint HOTMA Notice 2023-10 F.4.a

"For assets jointly owned by the family and one or more individuals outside of the assisted family, PHAs/MFH Owners must include the total value of the asset in the calculation of net family assets, unless the asset is otherwise excluded (see Joint HOTMA Notice 2023-10 F.4.b), or unless the assisted family can demonstrate that the asset is inaccessible to them, or that they cannot dispose of any portion of the asset without the consent of another owner who refuses to comply. If the family demonstrates that they can only access a portion of an asset, then only that portion's value shall be included in the calculation of net family assets for the family. Likewise, any income from a jointly owned asset must be included in annual income, unless that income is specifically excluded (see Joint HOTMA Notice 2023-10 Attachment G), or unless the family demonstrates that they do not have access to the income from that asset, or that they only have access to a portion of the income from that asset."

#### It matters because...

The old default was that jointly held assets were pro-rated among joint owners. However, pro-rating continues to be allowed, but not as the default. *Contrast HUD 4350.3 5-7 D 1.* 



#### Non-necessary personal property

Joint HOTMA Notice 20233-10 Table F1

	Chart   Examples of Personal Property, by Type				
	Necessary Personal Property	Non-Necessary Personal Property			
	Veh	icles			
	Car(s)/vehicle(s) that a family relies on for transportation for personal or business use  Examples: bikes, motorcycles, skateboards, scooters	<ul> <li>Recreational car/vehicle not needed for day-to-day transportation.</li> <li>Examples: campers, motorhomes, travel trailers, all-terrain vehicles (ATVs)</li> </ul>			
		☐ Recreational boats/watercraft			
	Househo	old Items			
	Furniture, carpets, linens, kitchenware				
	Common appliances				
	Personal effects that are not luxury items  Examples: toys, books				
	Personal computers, phones, tablets, and related equipment.				
	Professional tools of trade of the family	☐ Equipment/machinery that is not used to generate			
	Example: professional books	income for a business			
_	Jewelry				
	Wedding and engagement rings	<ul> <li>Expensive jewelry without religious or cultural value, or which does not hold family significance</li> </ul>			
	Jewelry used in religious/cultural celebrations and ceremonies				
	Clothing				
	Religious and cultural items				
	Recreation / Enterta	inment / Collections			
	Common electronics Examples: radios, televisions, DVD players, gaming systems	☐ Collectibles (e.g., coins/stamps)			
	Equipment used for exercising  Examples: treadmill, stationary bike, kayak, paddle- board, ski equipment	☐ Items such as gems/precious metals, antique cars, artwork, etc.			
	Musical instruments used by the family				
	Health an	d Medical			
	Medical equipment and supplies				
	Health care–related supplies				
	Financial	Accounts			
		<ul> <li>Bank accounts or other financial investments</li> <li>Examples: checking account, savings account, stocks/bonds)</li> </ul>			

#### **Passbook savings rate**

See imputed asset income, above.

#### **Retirement accounts**

24 CFR § 5.603(b)(3), Joint HOTMA Notice 2023-10 F.4.b and Example F3

Excluded from net family assets is "the value of any account under a retirement plan recognized as such by the Internal Revenue Service, including individual retirement arrangements (IRAs), employer retirement plans, and



retirement plans for self-employed individuals." Details, and subcategories of these types of plans can be found at the IRS website.

Joint HOTMA Notice 2023-10 F.4.a

"An asset moved to a retirement account held by a member of the family is not considered to be an asset disposed of for less than fair market value."

### Helpful Links | Types of IRS-Recognized Retirement Plans

IRS.gov

IRS-recognized retirement plans include [linked to the IRS website in the electronic versior
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 .6
Individual Retirement Arrangements (IRAs)
Roth IRAs
401(k) Plans
SIMPLE 401(k) Plans
<u>403(b) Plans</u>
SIMPLE IRA Plans (Savings Incentive Match Plans for Employees)
<u>SEP Plans</u> (Simplified Employee Pension)
SARSEP Plans (Salary Reduction Simplified Employee Pension)
Payroll Deduction IRAs
<b>Profit-Sharing Plans</b>
<u>Defined Benefit Plans</u>
Money Purchase Plans
Employee Stock Ownership Plans (ESOPs)
<b>Governmental Plans</b>
<u>457 Plans</u>
Multiple Employer Plans

Annuities are generally not considered to be retirement accounts. See Annuities above.

#### Stocks, bonds, and other financial accounts

These are considered non-necessary personal property and counted, subject to the \$50,000 total non-necessary personal property threshold.

Joint HOTMA Notice 2023-10 F.6.b

"PHAs/MFH Owners should not conflate an asset with an actual return of \$0...with an asset for which an actual return cannot be computed, such as could be the case for some non-financial assets that are items of non-necessary personal property. If the asset is a financial asset and there is no income generated (for example, a bank account with a 0 percent interest rate or a stock that does not issue cash dividends), then the asset generates zero actual asset income, and imputed income is not calculated. When a stock issues dividends in some years but not others (e.g., due to market performance), the dividend is counted as the actual return when it is issued, and when no dividend is issued, the actual return is \$0. When the stock never issues dividends, the actual return is consistently \$0."

#### Audit Tips



Financial accounts should never show imputed income on the certification form. These either have an actual amount of income or \$0. Only other types of non-necessary personal and real property are eligible for imputing asset income.

#### Trust accounts as assets [when under control of a family]

See also *Trust accounts as income only [when outside control of a family]* and chart in the *Income* section above. 24 CFR 5.609(b)(2) 2024 | Joint HOTMA Notice 2023–10 F.4.d



All trusts, including special needs trusts, are handled in the same manner. A trust is an account in which a bank or a custodian holds funds for a specific purpose. Whether the value of a trust count is a net family asset and whether distributions from the trust count as annual income to the family depends on the following three factors:

- ☐ Whether the trust is under the control of the family
- ☐ Whether distributions are made from the trust's principal; and
- ☐ The purpose of any distributions made from income earned by the trust.

"For a *revocable trust* <u>under the control of the family</u> or household, any distributions from the trust; except that any actual income earned by the trust, regardless of whether it is distributed, shall be considered income to the family at the time it is received by the trust." These trusts are treated as assets, with asset income. Distributions are not counted.

Joint HOTMA Notice 2023-10 F.4.a Footnote F3

"A disposition in trust is when the family creates a trust for the benefit of someone outside of the assisted family. It would not be considered an asset disposed of for less than fair market value if the family establishes a nonrevocable trust for the benefit of someone in the assisted family." The same applies when assets are put into a retirement account in the name of a household member.



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## Supplement | HOTMA Crosswalk

Item	Former Rule	HOTMA Rule	<b>New Reference</b>		
	Assets				
529 accounts	Not addressed in past rule.	Both the income and value are excluded from income and assets.	24 CFR 5.609(b)(10) & 5.603 definition "Net Family Assets" (6)		
ABLE accounts	Not addressed in past rule.	Both the income and value are excluded from income and assets.	24 CFR 5.603 definition "Net Family Assets" (6)		
"Baby bond" accounts	Not addressed in past rule.	Both the income and value are excluded from income and assets.	24 CFR 5.609(b)(10)		
Checking balance	6-month average	Current balance	Notice H 2023-10 - J.5.a		
Coverdell education Section 530 savings accounts	Not addressed in past rule.	Both the income and value are excluded from income and assets.	24 CFR 5.609(b)(10) & 5.603 definition "Net Family Assets" (6)		
FSS accounts (public housing Self Sufficiency Accounts)	Not addressed in past rule.	Both the income and value are excluded from income and assets.	24 CFR 5.609(b)(27) & 5.603 definition "Net Family Assets" (10)		



Item	Former Rule	HOTMA Rule	New Reference
Imputed asset income	If total net assets exceeded \$5,000, imputed asset income was calculated on total household net assets using the passbook savings rate (2%, then adjusted to .06% in 2016). The greater of actual or imputed asset income for all assets was counted.	If total net assets exceed \$50,000 (as adjusted annually), imputed asset income is calculated on assets that cannot otherwise have income determined using the passbook savings rate (.4% in 2024, then adjusted annually by FDIC average passbook savings rate).	24 CFR 5.609(a)(2)
Personal property	Excluded from assets, unless the property is being held as an investment. Did not include financial accounts.	Includes all assets that are not real property. Includes financial accounts (checking, savings, etc.). Personal property is broken into two categories:  Necessary personal property. These are excluded as assets. Non-necessary personal property. If total over \$50,000 (as adjusted), all items of non-necessary property values and incomes are counted. If total \$50,000 (as adjusted) or lower, all items of non-necessary personal property are assigned \$0 values, but income is counted.	24 CFR 5.609 (b)(4)-(4) Notice H 2023-10 – F.4.c
PASS (Plan to Achieve Self Sufficiency SSI accounts	Not addressed in past rules.	The income is excluded.	24 CFR 5.609(b)(12)(i)
Retirement accounts	Retirement accounts were counted as assets with asset income until the owner of the account began to make periodic withdrawals. Then the withdrawals were counted as income and the value of the account was ignored as an asset.	Accounts recognized as retirement accounts by the IRS are never counted as assets. Once the owner of the account begins to make periodic withdrawals, the withdrawals are counted as income and the value of the account continues to be ignored as an asset.	24 CFR 5.609(b)(26)
Tax returns	Tax returns were not excluded from asset values.	Excluded from <b>total net family assets</b> for 12 months from the time the return was received. This is verified if net family assets exceed \$50,000. [amended by HUD Feb. 2024]	24 CFR 5.603 Notice H 2023-10 - F.4.e
Trust accounts	There were different rules for different types of trusts and different Offices of HUD (inheritance trusts, special needs trusts, etc). HUD PIH considered all distributions of principal or income earned on the principal as income unless the distribution qualified as an income exclusion. HUD MFH considered how the trust was funded, whether the	All trusts are handled consistently.  If a trust is not in the control of the family, it is not an asset to the household.  If distributions are being received, the distribution of income from the trust is counted as income (but not distributions that come from the principle of the trust), with an exception for amounts received for the health and medical expenses for a minor child.  If a trust is in control of the family:  Income is counted as the income generated by the trust and any distributions are not income.	24 CFR 5.603 24 CFR 5.609 Notice H 2023-10 – F.4.d Notice H 2023-10– Table F2



Item	Former Rule	HOTMA Rule	New Reference
	distribution was from trust income or principal, and whether any distribution from trust income met an existing income exclusion.		
	Н	ousehold Members	
Foster children and adults	HUD MFH included foster members and their income. HUD PIH excluded them but allowed them bedrooms for occupancy standards. For HUD programs, child-care expenses were allowed to be deducted for foster children under age 13.	For all programs, foster members in a unit are now part of the "household" (occupants of a unit) but not the "family" (those who are counted toward income limit and who have their income counted). For HUD programs, child-care expenses are allowed to be deducted for foster children under age 13 if the expenses allow a family member to work.  The definition of foster child and foster adult are based on state law.	24 CFR 5.603 24 CFR § 5.609(b)(8)
		Income	
Alimony (and Child support)	Full court-ordered amounts were counted unless the full amount was not received and the household took reasonable efforts to collect with court or agency.	Only any amounts received are counted, regardless of any amounts the household is entitled to.	24 CFR 5.609(a)(1) Notice H 2023-10 - F.1
Adoption assistance payment limitation.	Adoption assistance income was limited to \$480 for each adopted child.	Adoption assistance is limited to HUD's dependent deduction per child (\$480 in 2024 but adjusted annually for inflation thereafter).	24 CFR 5.609(b)(15)
Adult dependent earned income limitation	Earned income for adult dependent full-time students was limited to \$480 per year.	Earned income for adult dependent full-time students is limited to HUD's dependent deduction per year (\$480 in 2024 but adjusted annually for inflation thereafter).	24 CFR 5.609(b)(3)
Child support (and alimony)	Court-ordered amounts were counted, unless the full amount was not received and the household took reasonable efforts to collect with court or agency.	Only any amounts received are counted, regardless of any amounts the household is entitled to.	24 CFR 5.609(a)(1) Notice H 2023-10 - F.1
COLA calculations for SSA and SSI benefits	Owners were given choices on how to apply the COLA.	HUD & LIHTC – COLAs are included for all new move-ins effective after the COLA is announced. HUD reexaminations – Effective the day after SSA has announced the COLA, owners/agents are required to factor in the COLA when determining SS and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1 or later of the upcoming year.	24 CFR 5.609(c)(2) Notice H 2023-10 – B.3
Medicaid benefits paid to keep a disabled household	Was limited to assistance paid by <i>Medicaid only</i> and just for the benefit of keeping <i>developmentally</i>	Now includes amounts from Medicaid and other federal or state assistance that is intended to assist persons with any disability remain in the household's unit.	24 CFR § 5.609(b)(19) Notice H 2023-10 – G.11



Item	Former Rule	HOTMA Rule	New Reference		
member in the	disabled household				
household's	members at home.				
unit (excluded					
from income).					
Non-monetary	Was counted as income,	Excluded if received from a food bank or similar	24 CFR		
"in-kind"	except when the	organization. <i>Recurring</i> in-kind donations from	5.609(b)(24)(vi)		
donations	contributions were food.	family or friends are counted.			
Sporadic	Excluded, along with	Included. Only "nonrecurring" income is excluded.	24 CFR 5.609(b)(24)		
income	"nonrecurring" income.				
Student	Student financial assistance	Section 8 recipients. While current HUD	24 CFR § 5.609(b)(9)		
financial	was excluded for all but	Appropriations Act language is in place,			
assistance	Section 8 assistance	student financial assistance for Section 8			
	recipients. For Section 8	recipients continues to be counted as it was			
	recipients, assistance from	prior to HOTMA. Assistance from the Higher			
	the Higher Education Act of	Education Act of 1965 (HEA), from other grants			
	1965 (HEA), from other	and scholarships, and from private sources			
	grants and scholarships,	(such as parents and grandparents) are added			
	and from private sources	together, and total educational cost are			
	(such as parents and	excluded. Any excess assistance is counted.			
	grandparents) are added	Exceptions exist for dependents of the			
	together, and tuition and other fixed costs were	household and for persons over age 23 with a			
	excluded. Any excess	dependent child. People meeting that			
	income is counted.	exception are treated as non-Section 8 recipients.			
	Exceptions exist for	·			
	dependents of the				
	household and for persons	excluded. However, HEA educational assistance and other scholarships and grants			
	over age 23 with a	from schools, businesses, or government			
	dependent child.	programs are added together and total			
	dependent enna.	educational expenses are subtracted. If any of			
		the non-HEA assistance is left over, that is			
		income.			
Veterans	Not addressed in the past.	Is excluded if the benefits are paid for the care of a	24 CFR § 5.609(b)(17)		
Regular Aid		veteran in the unit.	, , ,		
and					
Attendance					
Worker's	Included in income.	Worker's compensation payments are excluded	24 CFR 5.609(b)(5)		
compensation		from income.	Notice H 2023-10-G.6		
		[amended by HUD Feb. 2024]			
	Verifications				
Assets	When applying HUD	When total net assets did not exceed \$50,000 (as	24 CFR 5.603		
	streamlining rules, when	adjusted annually), assets can be verified using			
	total net assets did not	self- certification two out of three years. Assets may			
	exceed \$5,000, assets	be self-certified at move-in.			
	could be verified using self-				
	certification two out of	For LIHTC rules, when net family assets do not	Rev. Proc. 94-65		
	three years, starting the	exceed \$50,000, assets an owner may rely on self-			
	year after move-in.	certification of the assets every year. As long as the			
		state agency allows for it. HOTMA adjusted the			
	For LIHTC rules, when net	\$5,000 to \$50,000.			
	family assets do not exceed				
	\$5,000, assets an owner				
	may rely on self-				
	certification of the assets				
	every year.				



Item	Former Rule	HOTMA Rule	New Reference
Checking and other financial accounts.	6-months of statements or verification of deposit was required to collect a 6-month average for checking. Other accounts used current balance.	All accounts use current balance and a recent statement to verify.	Notice H 2023-10 J.5.a
Court orders (for child support or alimony)	Often required to verify entitlement to ordered income.	Only relevant if the household is receiving the full ordered amount. Will often not be needed.	Notice H 2023-10 - F.1
Excluded income	Not directly addressed in former rules, although income that was totally excluded was generally not required to be verified.	For income sources where the entire amount qualifies to be excluded from the annual income the owner/agent is not required to verify the income using third-party verification, document in the tenant file why the third-party verification was secured or report the income on certification forms. Owner/agents may accept an applicant or participant's self-certification as verification of excluded income. Owner's/agent's application and reexamination questionnaire documentation may serve as the self-certification of excluded income.	
Means tested public assistance income determination verification safe harbor.	HUD – The income determinations of other programs were not acceptable for HUD certifications. LIHTC – The use of PHA determinations of income were acceptable for voucher-holding tenants.	For households receiving benefits from the below federal means tested programs, total household annual income can be based on an income determination made within the previous 12-month period from the means-tested federal public assistance programs. The 12 month deadline is from the time received by the owner/agent and can be determined from benefit documentation/letters supplied by the household or a form completed by an administrator of the other means tested program.  TANF Medicaid SNAP The EITC The LIHTC WIC SSI Other programs administered by HUD Other means-tested federal public assistance that HUD establishes an MOU with. Other means tested federal programs with comparable reliability announced by HUD through Federal Register notice.	24 CFR 5.609(c)(3) Notice H 2023-10 – J.4
Paystubs and other documents supplied by a household.	Although considered "third-party verification" often less desirable than verification forms completed by an employer.	Considered "third-party verification" supplied by household. <b>Preferred</b> over forms completed by an employer. Less desirable than the Work Number, other verification databases, or EIV reports.	Notice H 2023-10– Table J2
Tax returns.	No particular rules.	When needed for verification purposes, income tax returns with corresponding official tax forms and schedules attached and including third-party receipt of transmission for income tax return filed (i.e., tax preparer's transmittal receipt, summary of	Notice H 2023-10 J.5.a



Item	Former Rule	HOTMA Rule	New Reference			
		transmittal from online source, etc.) are an				
		acceptable form of written, third-party verification.				
Verification	Most desirable form of	In most cases less desirable than EIV, Work Number	Notice H 2023-10-			
form	verification.	and other database verification systems and third-	Table J2			
completed by		party verification supplied by a household. Only of				
a third party.		medium acceptability.				
Work Number	Was not considered full	Other than EIV reports, this is the preferred type of	Notice H 2023-10-			
for Everyone	third-party verification and	verification (of highest acceptability). HUD	Table J2			
upfront	other options were	encourages, but does not require, use of these				
income	preferred.	database systems.				
verification						
systems (and						
other						
database						
income						
verification						
systems).						
	HUD-Only Issues					
Asset	No requirements.	Initial Occupancy. Occupancy is denied for HUD-	24 CFR 5.100			
limitation		assisted families who have:	24 CFR 5.603			
		<ul> <li>Total net assets exceeding \$100,000 (as</li> </ul>	24 CFR 5.618			
		adjusted annually).				
		<ul> <li>Real property that is suitable for</li> </ul>				
		occupancy (with some exceptions).				
		At reexamination. Owner/agents may create				
		exemption policies to totally, partially, or selectively				
		not implement the asset limitations for existing				
		residents at reexamination. Note: Applies only to				
		rental assistance programs such as Section 8 PBRA,				
		202/8, HCV, and public housing.				
		[amended by HUD Feb 2024]				
Child-care	Child-care expenses could	Child-care expenses can be deducted if the	24 CFR 5.603 - Child-			
expense	be deducted only if the	expenses allowed a household member to work,	Care Expenses			
deduction	expenses allowed a	look for work, or further their education.	24 CFR 5.611(d)			
	household member to	Owner/agents may develop hardship exemptions to				
	work, look for work, or	temporarily allow child-care expenses that are				
	further their education.	needed for other purposes if the household would				
		not otherwise be able to pay their rent.				
Definition of	Was <i>anticipated</i> income,	Based on the last 12 months' income, taking into	24 CFR §§ 5.609(c)(2)			
income at	estimating income for the	consideration certain changes and subject to	Notice H 2023-10– B.2			
annual	next 12 months after the	household concurrence. Move-in and interim				
reexamination	certification effective date,	income is still calculated based on anticipated				
	the same as at initial	income.				
FD/	income determination.	I to a constant and a	24 CED E 222			
EIV reports	Income reports were run at	Income reports are only required at annual	24 CFR 5.233			
	annual and interim	examinations.	Notice H 2023-10-			
	examinations.	Discrepancy reports are triggered by the 10% of	Table J2			
	Discrepancy reports were	adjusted income threshold at which reporting of	Notice H 2023-10 J.3			
	triggered by \$2,400	changes of income is required.				
	differences (the \$200 a					
	month at which reporting					
	of changes of income were					
	required).					



Item	Former Rule	HOTMA Rule	New Reference
Elderly household deduction	Was \$400 per elderly or disabled household.	\$525 per elderly or disabled household in 2024 and adjusted annually thereafter.	24 CFR 5.611(a)(2)
Health and medical and reasonable attendant care and auxiliary apparatus expense deduction	Expenses in excess of 3% of total annual income may be deducted when determining adjusted income.	10% of total annual income may be deducted when determining adjusted income. For households receiving the deduction going into 01/01/2024, the threshold with phase in at 5% in 2024, and 7.5%. and 10% in 2025 and 2026, respectively. Hardship exemptions may be implemented by an owner/agent.	24 CFR 5.611(a)(3)
Interim recertification	Required for increases of income of \$200 or more a month.  Required for decreases of income upon request of a household.  Required for certain changes of household composition and other changes.	Required for increases of unearned income exceeding 10% of household adjusted income.  Not required for increases of earned income or for changes that are reported in the last 3 months of the certification year.  Required for decreases of income exceeding 10% of household adjusted income (or a lesser threshold set by the owner).  Required for certain changes of household composition and other changes.  Must be conducted in a reasonable time from report based on circumstances, but no more than 30 days.	24 CFR 5.567(c)(1)
Releases of information	The HUD form 9886 (PIH) and 9887 (MFH) release packets were required to be signed annually. Assistance was terminated if not signed within 15 months of the execution of the last form.	The HUD form 9886 (PIH) and 9887 (MFH) release packets are only signed once by each adult, except:  • When any adult person joins the family  • When a member of the family turns age 18  • As required by HUD administrative instructions.	24 CFR 5.230 Notice H 2023-10 - J.1
Social security number verification	Documentation of SSNs had to be collected prior to occupancy. This included a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name and SSN of the individual.	After the owner/agent has attempted to first obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of the individual and the SSN of the individual, along with other identifying information of the individual, self-certification of SSN and at least one third-party document, such as a bank statement, utility or cell phone bill, benefit letter, etc., that contains the name of the individual. If verifying an individual's SSN using this method, the owner/agent must document why the other SSN documentation was not available.  If the tenant's SSN becomes verified in EIV, then no further verification is required. If the tenant's SSN fails the SSA identity match, then the PHA/MFH Owner must obtain a valid SSN card issued by the SSA or an original document issued by a federal or state government agency that contains the name of	
		the individual and the SSN of the individual, along with other identifying information of the individual. The tenant's assistance must be terminated if they fail to provide the required documentation.	



Item	Former Rule	HOTMA Rule	New Reference
Tenant	Required and suggested	HOTMA implementation guidance requires all	Notice H 2023-10
Selection	topics were listed in HUD	discretionary policies allowed by HOTMA to be	[thrughout]
Policies (TSP)	Handbook 4350.3 Figure 4-	listed in the TSP. This is true even for policies that	
	2.	do not relate to tenant selection, such as those	
		relating to hardship exemptions and reexamination	
		of income. These will be added to the TSPs existing	
		topics in the 4350.3 Figure 4-2, except a few cases	
		where HOTMA adjusts a currently included topic.	
		HUD is requiring the TSPs and EIV polices to be	
		amended by 5/31/2024 prior to HOTMA becoming	
		in full affect. [amended by HUD Feb 2024]	