

INCOME EXCLUSIONS

The section below provides descriptions and clarifying information for new and updated income exclusions referenced in 24 CFR § 5.609(b).

Please note that this section addresses only those that are newly added or updated by the HOTMA final rule.

Nonrecurring Income Definition

Regulation: 24 CFR §§ 5.609(b)(24) and CFR 891.105

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.

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

Nonrecurring Income: Temporary U.S. Census Bureau Employment

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 are excluded from annual income. However, it should be noted that any permanent employment with the U.S. Census Bureau should be considered in the annual income calculation.

Nonrecurring Income: Economic Stimulus or Recovery Payments

Direct federal or state payments intended for economic stimulus or recovery are excluded from annual income.

Nonrecurring Income: State Tax Refunds

Amounts directly received by the family as a result of state refundable tax credits or state tax refunds at the time they are received are excluded from annual income.

Nonrecurring Income: Federal Tax Refunds

Amounts directly received by the family as a result of federal refundable tax credits and federal tax refunds at the time they are received are excluded from annual income.

Nonrecurring Income: Gifts

Gifts for holidays, birthdays, or other significant life events or milestones (e.g., weddings, baby showers, anniversaries) are excluded from annual income.

Nonrecurring Income: In-Kind Donations

Non-monetary in-kind donations, such as food or toiletries, received from a food bank or similar organization are excluded from annual income. When calculating annual income, PHAs/MFH Owners are prohibited from assigning monetary value to non-monetary in-kind donations received by the family from a food bank or similar organization.

Non-recurring, non-monetary in-kind donations from friends and family may be excluded as non-recurring income. See (24 CFR § 5.609(b)(24)).

Lump-Sum Additions to Net Family Assets

Lump-sum additions to net family assets, including but not limited to lottery or other contest winnings, are excluded from annual income. These amounts may count toward net family assets in accordance with 24 CFR § 5.603.

Income Earned on Amounts Placed in a Family's Family Self Sufficiency (FSS) Account

Income earned on amounts placed in a family's FSS account is excluded from the family's calculation of annual income.

Income of Live-in Aides, Foster Children, and Foster Adults

Income of a live-in aide, foster child, or foster adult as defined in 24 CFR §§ 5.403 and 5.603 is excluded from the family's calculation of annual income.

Payments Received for the Care of Foster Children or Foster Adults or State or Tribal Kinship or Guardianship Care Payments

Payments received for the care of foster children or foster adults, or state or Tribal kinship or guardianship care payments, are excluded from annual income. This income exclusion also applies to Kinship Guardian Assistance Payments

(KinGAP), kinship care payments, and other state-based kinship or guardianship payments that are alternatives to traditional foster care programs.

Insurance Payments or Settlements

Insurance payments and settlements for personal or property losses, including but not limited to payments under health insurance, motor vehicle insurance, and workers' compensation, are excluded from annual income. Any workers' compensation is always excluded from annual income, regardless of the frequency or length of the payments.

Civil Action Recoveries or Settlements

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 a person with disabilities are excluded from annual income. Any amounts recovered are excluded irrespective of whether they are received periodically or in a lump sum payment.

Earned Income of Dependent Full-Time students

Earned income of dependent full-time students in excess of the amount of the deduction for a dependent in § 5.611 is excluded from annual income. Full-time students must be dependent family members for this exclusion to apply. This exclusion does not apply to the head of household, spouse, or co-head. This means that the first \$480 of the income earned by dependent full-time students will be included in the family's calculation of annual income.

The dependent deduction will be adjusted annually in accordance with the (CPI-W). (inflation adjustment)

Full-time dependent students are eligible to receive both the \$480 (as adjusted for inflation) dependent deduction and the exclusion described in this paragraph.

Adoption Assistance Payments

Adoption assistance payments in excess of \$480 per adopted child are excluded from the family's calculation of annual income. This amount will be adjusted annually in accordance with the CPI-W. All dependents, including adopted family members, are eligible to receive the \$480 (as adjusted for inflation) dependent deduction and the exclusion described in this paragraph, 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.

Veterans Regular Aid and Attendance

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.

Certain veterans are eligible for "aid and attendance" payments from the Veterans Affairs (VA) Administration. These 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.

Home-Based Care Payments for a Family Member(s) with a Disability(ies)

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 are excluded from the calculation of the family's annual income.

The exclusion does not apply to income earned by the family for other caregiving services provided to individuals outside of the assisted household.

Loan Proceeds

Loan proceeds (the net amount disbursed by a lender to a borrower under the terms of a loan agreement) received by the family or a third party (e.g., proceeds received by the family to finance the purchase of a car) are excluded from annual income. The loan borrower or co-borrower must be a member of the family for this income exclusion to be applicable.

Loan proceeds may include, but are not limited to, personal loans (with a loan agreement) and student loans, regardless of whether the proceeds are received in the form of a refund to the student.

Certain Payments Received by Tribal Members

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 (IRC) or other federal law, are excluded from annual income.

Generally, payments received by tribal members in excess of the first \$2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained below, payments made under the Cobell Settlement, and certain per-capita payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the

definitions of annual income in 24 CFR 5.609, the Census Long Form, and the IRS Form 1040, including the programs affected by this notice.

Exclusions from Other Federal Statutes

This exclusion applies to all amounts that HUD is required by federal statute to exclude from annual income. HUD will publish a notice in the Federal Register to identify the benefits that qualify for this exclusion. Updates will be published when necessary.

Replacement Housing Gap Payments

Replacement housing “gap” payments made in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (“URA”), as implemented by 49 CFR Part 24, are excluded from annual income.

“Gap” payments offset the increased out-pocket costs of displaced persons who move from one federally subsidized housing unit to another federally subsidized housing unit.

Student Financial Assistance

The treatment of student financial assistance depends on the HUD program, student/household characteristics, and the type of financial assistance received by the student. The student financial assistance rules apply to both full-time and part-time students.

Achieving a Better Life Experience (ABLE) Accounts

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.

Income and Distributions from Coverdell Education Savings Accounts, 529 Accounts and “Baby Bond” Accounts

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 are excluded from income and net family assets.

Gross Income from Self-Employment or Operation of a Business

The gross income received by a family through self-employment, or the operation of a business is excluded from income. Gross income is all income amounts received into the business, prior to the deduction of business expenses. To determine the amount of business or self-employment income included in a family’s annual income, the net income of the business must first be determined. Net income is the “gross income amount minus business expenses” that allows the business to operate. The net income from self-employment or the operation of a business is considered income.

Elimination of the Earned Income Disregard (EID)

The Earned Income Disregard (EID) will not apply to any family who is not eligible for and already participating in the disallowance as of December 31, 2023. The EID allowed eligible families to have a portion of their earned income excluded from annual income for a maximum period of 24 consecutive months. Although HOTMA eliminates the EID from HUD regulations, families who were receiving the

EID benefit as of December 31, 2023, may continue to receive the full benefit until the remaining timeframe for an individual family's EID expires. Because the EID lasts up to 24 consecutive months, no family will still be receiving the EID benefit after December 31, 2025.

Civil Rights Settlements or Judgments

Civil rights settlements or judgments, including settlements or judgments for back pay, are excluded from the calculation of annual income.