# Housing Opportunity Through Modernization Act (HOTMA) Video Series for Multifamily Housing Owners and Property Managers

Determining Annual Income

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| Slide No. | Slide Title | Script |
| 1 | Cover | Welcome to HUD Multifamily Housing’s HOTMA video series for Owners. As you may know, HOTMA stands for the Housing Opportunity Through Modernization Act. Today’s session will cover “Determining Income.”  |
| 2 | MFH HOTMA Video Series for Owners | Determining Income is one of eight HOTMA training videos created specifically for Multifamily Housing Property Owners. Video recordings and the accompanying slide decks for the other topics are currently or soon to be available on HUD’s Multifamily Housing (MFH) HOTMA site. |
| 3 | Agenda | Today we will discuss the following topics: * HOTMA’s new definition of “annual income.”
* Different types of income including earned income, unearned income, and income from assets.
* And New and updated income exclusions.
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| 4 | Training Objectives | This training will provide Multifamily Housing Property Owners and property managers with the knowledge and tools to:* Understand the new definitions of annual income and related terms introduced in HOTMA.
* Determine which sources of income to include when calculating income.
* And understand the new and revised income exclusions.
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| 5 | HOTMA Background | On July 29th, 2016, HOTMA was signed into law. It consists of 14 sections that affect HUD’s rental assistance programs.On February 14th, 2023, the Final Rule for implementing Sections 102, 103, and 104 of HOTMA was published.Only Sections 102 and 104 apply to HUD’s Multifamily Housing programs.* Section 102 changes requirements related to income reviews.
* Section 104 sets maximum asset limitations.

Then on September 29th, 2023, Notice H 2023-10 was issued, which provided guidance on Section 102.Recently, on February 2nd, 2024, Revised Notice H 2023-10 was issued. This provided guidance for Sections 104 and technical clarifications.As a side note, HOTMA more closely aligns MFH and Public and Indian Housing policies. |
| 6 | Program Applicability  | The information in this training is applicable to the following MFH programs:* Section 8 Project-Based Rental Assistance (PBRA)
* Section 202/8 Supportive Housing for the Elderly and Persons with Disabilities
* Section 202/162 Project Assistance Contract (202/162 PAC)
* Section 202/811 Capital Advance with Project Rental Assistance Contract (202/811 PRAC)
* Non-insured 236 projects with Interest Reduction Payments (236 IRP)
* Section 811 Project Rental Assistance Demonstration (811 PRA)
* Senior Preservation Rental Assistance Contract (SPRAC)
* Note that HOTMA’s Asset Limitation provision, discussed in detail in the Asset Limitation Training included in this training series, applies only to Section 8 Project-Based Rental Assistance and Section 202/8.
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| 7 | Notice H 2023-10 Compliance Dates | The following are key HOTMA compliance dates: January 1st, 2024, is the effective date of the Final Rule. By May 31st, 2024, all Multifamily Housing Owners must:* Update their Tenant Selection Plans and Enterprise Income Verification policies and procedures to reflect HOTMA’s rules and discretionary policies, and also
* Make the updated Tenant Selection Plan and Enterprise Income Verification policies and procedures publicly available.

Then, by January 1st, 2025, all MFH Owners must be fully compliant with the HOTMA Final Rule. |
| 8 | Key Changes in Income Determination | Some of HOTMA’s key changes for income determination include:First, there are changes to the definition of “annual income,” which now, under HOTMA, is defined broadly as all amounts received by each adult family member or head-of-household or spouses, plus unearned income for minors, plus income from assets.Second, there are several new definitions, including “day laborer,” “independent contractors,” and “seasonal workers.” Incomes from persons in these categories are now, under HOTMA, specifically included in family income.Third, HOTMA broadened and clarified list of income exclusions, which will be covered in detail later in this presentation.Fourth, there are also changes to asset income calculations, including new exclusions; an increased imputed assets threshold from $5,000 to $50,000 (adjusted for inflation); and the requirement to use the sum of all actual income from assets plus imputed income (when applicable).For detailed instructions on calculating a family’s assets, please see the companion MFH training video “HOTMA Net Family Assets.”  |
| 9 | Expanded Definition of Income | Section 5.609(a) of the HOTMA Final Rule changes the definition of annual income, providing clarification and generally expanding the umbrella of what constitutes annual income. With respect to the family, annual income under HOTMA includes:*All amounts, not specifically excluded under HOTMA, 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,* *Unearned income by or on behalf of each dependent who is under 18 years of age, and**Actual or imputed income from assets when the net family assets exceed $50,000.* |
| 10 | Income Inclusions | The following slides will detail the sources of income that MFH Owners must include in determining annual income. |
| 11 | What’s Included: Earned Income | First, let’s look at earned income. Earned income includes earnings and income from:* Wages
* Tips
* Salaries
* Other employee compensation, such as commission from sales
* And Net income from self-employment.

Earned income from family members aged 18 or older is counted toward annual income. If the head of household and/or their spouse is under 18 years of age, their income is also included.However, the earned income of dependent full-time students in excess of the dependent deduction is *excluded* from annual income.  |
| 12 | Garnished, Levied & Withheld Wages | In cases where a family member’s wages are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other applicable debt, the family member’s gross wages—prior to the deduction from the wages—are included as part of annual income. In other words, garnished, levied, and withheld wages are considered part of annual income. |
| 13 | What’s Included: Unearned Income | Unearned income includes amounts received by or on behalf of any adult or minor. The following forms of unearned income are included in the family’s annual income:* Any amount received on behalf of dependents under 18, including child support payments.
* Alimony payments.
* Pension and annuity payments.
* Transfer payments including:
* Welfare assistance
* Social Security
* Government subsidies for certain benefits.

Any cash or other monetary in-kind benefits that are not specifically excluded under HOTMA are included as income. |
| 14 | What’s Included: Income from Assets | Families that own net assets valued in excess of $50,000, adjusted for inflation, must include income derived from those assets in their annual income. Net family assets include the net cash value of all real property and the net cash value of all non-necessary items of personal property.Starting in 2025, the $50,000 threshold will be annually adjusted for inflation using the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).If it is possible to calculate actual returns from an asset, such as rental income or equity from investments, this amount is added to income.It is possible for actual income from assets to be $0. If the income from an asset is $0, the imputed income does not need to be calculated.If the value of the actual returns from a given asset cannot be calculated, the Owner must calculate the imputed returns on the net family assets.The imputed value returns can be calculated by multiplying the net asset value by HUD’s current passbook savings rate, and then adding this amount to the income.Additional information on calculating net family assets can be found in the Multifamily Housing HOTMA training webinar “Net Family Assets.” |
| 15 | Self-Employment Income | A family’s *net income* from the operation of a business or profession is considered earned income and must be included in annual income calculation.An allowance for depreciation of assets, based on straight-line depreciation, ***can*** be used as a deduction for determining income.Any cash withdrawal from the business operation will be considered income unless the cash is used for reimbursement or reinvestment in the business.The following expenditures ***cannot*** be used as deductions:* Expenditures for business expansion
* Amortization of capital indebtedness.
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| 16 | New Definitions | HOTMA introduces definitions of the following sources of income that must be included in annual income, even though the source, date, and amount of income vary:* Day laborer: *An individual hired and paid one day at a time without an agreement that the individual will be hired or work again in the future.*
* Independent contractor: *An individual who qualifies as an independent contractor instead of an employee under IRS federal tax requirements, whose earnings are subject to the self-employment tax.*
* Seasonal worker: *An individual who is hired into a short-term position and the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands.*

Incomes from persons in these categories are specifically included in annual income. |
| 17 | Knowledge Check 1 | Now let’s take a moment to check what we have learned.A family consists of two working adults and three minors (children under the age of 18). The two adults earn a combined annual income of $47,000, plus $520 per month in child support payments. **What is the gross annual (pre-deduction) income for this family?** A: $47,520B: $47,000C: $53,240D: $40,720 |
| 18 | Knowledge Check 1 – Answer | The correct answer is C, $53,240. A: $47,520B: $47,000**C: $53,240**D: $40,720The earned income from wages is $47,000, and the unearned income received in child support on behalf of the children is $520 per month multiplied by 12 months, or $6,240. Adding these two amounts creates a total pre-deduction income of $53,240. |
| 19 | Income Exclusions | We will now move on to income exclusions. HOTMA has modified and clarified the list of annual income exclusions for MFH families.  |
| 20 | Income Exclusions Summary | This slide contains a comprehensive list of sources of income that should be ***excluded*** from an MFH family’s income when determining annual income. Each source will be described in the following slides. |
| 21 | Income Exclusions: Nonrecurring Income | Nonrecurring Income.* Income that will not be repeated beyond the coming year based on information provided by the family.
* This exclusion replaces the previous “temporary, nonrecurring, or sporadic income (including gifts)” at 24 CFR Part 5.609(c)(9).

Examples of nonrecurring income to be excluded under HOTMA include:* Payments from the U.S. Census Bureau for decennial census employment.
* Direct Federal or state economic stimulus payments.
* Direct payments received as a result of Federal/state tax returns or Federal/state refundable tax credits.
* Gifts for holidays, birthdays, or other life milestones.
* In-kind donations, such as food or clothing from friends and family.
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| 22 | Income Exclusions: Lump-Sum and Trust Distributions | Lump-sum additions to family assets, such as lottery and other contest winnings are excluded.Trust Distributions* Payments or distributions from the *principal* of a trust that is an irrevocable or revocable trust outside of the assets of a family, or a revocable trust in control of the family, including Special Needs Trusts.

Importantly, MFH Owners must count distributions of any income from a trust (e.g., interest earned) as actual income, with the exception of distributions used to pay for the health or education of a minor. |
| 23 | Income Exclusions Continued | Family Self Sufficiency Accounts (FSS)* Income earned on amounts placed in a family’s Family Self Sufficiency (FSS) account is excluded.

Live-in Aide, Foster Child, and Foster Adult Income* Funds earned by, or received on behalf of, foster children and adults are no longer to be considered income, including:
* Income earned by foster children or adults
* Guardianship or state/tribal kinship payments or kinship guardian assistance payments (Kin-GAP).
* Income earned by a live-in aide is also excluded.

Foster children and adults are considered members of the household and are accounted for when determining unit size. However, their income and assets are not taken into consideration when calculating income. |
| 24 | Income Exclusions Continued | Insurance Payments or Settlements* Insurance payments from judgments or settlements such as health insurance, motor vehicle insurance, and workers compensation insurance are excluded.
* Periodic insurance payments received at weekly, biweekly, or monthly intervals and lasting longer than one consecutive year **are not excluded**and must be considered part of a family’s annual income.

Civil Rights Settlements and Judgments* Civil rights settlements or judgments, including settlements or judgments for back pay, are excluded.

Civil Action Recoveries or Judgments* All amounts recovered in a civil action or settlement from a claim that resulted in a family member becoming disabled are excluded, including lump sum and periodic payments.
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| 25 | Income Exclusions: Student Earned Income  | The earned income of dependent full-time students in excess of the amount of the deduction for a dependent is excluded from annual income. For this income exclusion:* 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 a dependent full-time student will be included in the family’s calculation of annual income. The dependent deduction will be adjusted annually in accordance with the Consumer Price Index, the CPI-W. Full-time dependent students are eligible to receive both the $480 dependent deduction (adjusted for inflation) and the exclusion described on this slide. |
| 26 | Income Exclusions Continued | Adoption Assistance Payments* All adoption assistance payments on behalf of any adopted dependent (including adults) in excess of $480 per dependent are excluded. Beginning in 2025, the $480 will be adjusted annually in accordance with the CPI-W.

Veterans Regular Aid and Attendance * Payments related to aid and attendance for veterans who served during periods of war.
* Please note that although Aid and Attendance payments to veterans from the Veterans Administration are excluded, payments from other VA programs, including Veterans Pension and Survivors Pension, must be included in a family’s annual income determination.

Home-Based Care Payments* Payments authorized by a Federal or state agency to a family member with a disability to enable the family member to reside in the assisted unit and to receive appropriate services are excluded.
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| 27 | Income Exclusions Continued | Loan Proceeds* Loan funds, including personal or student loans, that are disbursed to a borrower who is a member of the assisted family are excluded from annual income.

Certain Payments Received by Tribal Members* Payments received by Tribal Members from claims of mismanagement of assets held in trust by the United States are excluded.
* This exclusion applies only if the payments are also excluded from a family’s gross income under the Internal Revenue Code (IRC), as in the following circumstance:
* Cobell Settlements – Payments to individual Tribe members as a result of a class action lawsuit brought by a group of individual Indians against the United States.
* Tribal Trust Settlements – Certain settlements between the United States and Tribes that result in per capita payments to Tribe members.
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| 28 | Income Exclusions Continued | Exclusions from Other Federal Statutes* This category covers all amounts that HUD is required to exclude by statute. HUD will publish such exclusions in the Federal Register.

Housing “Gap” Payments* Payments to families displaced from federally subsidized housing to offset rent and utility costs are excluded.

[Side box/note:] If the family continues to receive payments after it finds housing, the Owner must count the gap payments as income. |
| 29 | Income Exclusions: Student Financial Assistance | Student Financial Assistance* Financial assistance amounts paid to full- or part-time students or to an educational institution on the students’ behalf. The amounts are excluded only up to the amount that covers tuition and required fees.
* Any difference between the assistance received and the eligible costs covered is included in a family’s income.
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| 30 | Income Exclusions: Student Financial Assistance | In 2023, HUD’s appropriation included a limitation to Section 8-assisted students receiving Federal aid under Section 479B of the Higher Education Act (HEA). Under this limitation:* For assisted students who are head of household or spouse, under age 23, or without dependent children, only **amounts in excess of tuition and associated fees** will count as income.
* For assisted students who are head of household or spouse, age 23 or older, AND have dependent children, assistance received to cover other **actual costs in addition to tuition,** including books, equipment, and Section 8-assisted housing are excluded.
* If this Section 8 limit is not included in future appropriations, these actual covered costs will be excluded for all students.
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| 31 | Income Exclusions Continued | ABLE Accounts* Achieving a Better Life Experience (ABLE) accounts are excluded from net family assets, and distributions from these accounts are excluded from annual income.

Educational Savings Accounts* Income and distributions from any Coverdell educational savings account or “baby bond” accounts under IRS sections 529 or 530.

Gross Income from Self-Employment or Operation of a Business* The gross income received by a family prior to the deduction of business expenses. The ***net income*** received by the family, however, is counted as annual income.

Elimination of the Earned Income Disregard (EID)* HUD is phasing out the EID program. The EID will no longer apply to any family not already participating in the program as of December 31, 2023.
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| 32 | Income Exclusions: Retirement Plans | Retirement Plans* Income or equity earned by any IRS-recognized retirement plan is excluded.

Please note: Any distribution of or periodic payment from retirement accounts received by the family is considered income. |
| 33 | Exclusions: References | For full details regarding exclusions please refer to Section 5.609(b)(3) of the HOTMA Final Rule, or the Notice H 10-23 Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 (HOTMA) from September 29, 2023. |
| 34 | Knowledge Check 2 | Now let’s do another Knowledge Check: **Select all the following forms of income that count towards a Multifamily Housing family’s annual income:**A. A $5,000 wedding presentB. Tips earned from working as a bartenderC. An $800 winning scratch-off lottery ticketD. Income earned driving for a ridesharing appE. $1,000 in equity in a stock investmentF. $1,000 in equity in a ROTH IRA accountG. Regular payments distributed from a 401kH. Earned income from a foster adult’s wages working at the local supermarketI. Social security disability paymentsJ. Monthly alimony payments |
| 35 | Knowledge Check 2Answer | The correct choices are: A. A $5,000 wedding present**B. Tips earned from working as a bartender**C. An $800 winning scratch-off lottery ticket**D. Income earned driving for a ridesharing app****E. $1,000 in equity in a stock investment**F. $1,000 in equity in a ROTH IRA account**G. Regular payments distributed from a 401k**H. Earned income from a foster adult’s wages working at the local supermarket**I. Social security disability payments****J. Monthly alimony payments** |
| 36 | Resources | For additional information, the following resources can be found on HUDs website :* HOTMA Final Rule, which can be found at <https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-10hsgn.pdf>.
* Notice H 2023-10, which you can locate at <https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-10hsgn.pdf>.
* HUD Multifamily Housing HOTMA Page, which you will find at [https://www.hud.gov/program\_offices/‌housing/‌mfh/‌hotma](https://www.hud.gov/program_offices/%E2%80%8Chousing/%E2%80%8Cmfh/%E2%80%8Chotma).
* Summary of Key HOTMA Changes, available at [https://www.hud.gov/sites/dfiles/Housing/documents/‌HOTMA\_‌One\_‌pager.pdf](https://www.hud.gov/sites/dfiles/Housing/documents/%E2%80%8CHOTMA_%E2%80%8COne_%E2%80%8Cpager.pdf).
* List of Discretionary Policies to Implement HOTMA: [https://www.hud.gov/sites/dfiles/Housing/‌documents/‌MFH\_‌List\_Discretionary\_Policies\_Implement\_HOTMA.pdf](https://www.hud.gov/sites/dfiles/Housing/%E2%80%8Cdocuments/%E2%80%8CMFH_%E2%80%8CList_Discretionary_Policies_Implement_HOTMA.pdf).
* And HUD User Inflationary Adjustment Page, located at <https://www.huduser.gov/portal/datasets/inflationary-adjustments-notifications.html>.
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| 37 | **Thank you!** | Thank you for attending this session. For technical assistance or for additional information, please contact the Multifamily Housing HOTMA Help Desk at:MFH\_HOTMA@hud.gov |