



Determining Income

HUD Multifamily Housing
HOTMA Training Series for Owners

May 2024

MFH HOTMA Video Series for Owners



Overview of Notice H2023-10
Implementation Guidance



Interim Reexaminations



Annual Reexamination



Mandatory Deductions and
Hardship Relief/Exemptions



Asset Limitation



Net Family Assets



Determining Income



Verification and Other
Related Topics

A close-up photograph of a hand holding a black and gold pen, poised to write on an open notebook. The notebook has lined pages and a small label that reads "Name No." and "Date". The background is blurred, showing more of the notebook and a white surface.

Agenda

- Revised definition of annual income
- Review of different types of income including earned income, unearned income, and income from assets
- New and updated income exclusions

Training Objectives

- Understand the revised definition of annual income under HOTMA
- Determine the sources of income to include when calculating annual income
- Understand the new and revised income exclusions



HOTMA Background

July 29, 2016

HOTMA signed into law.

- Consists of 14 sections affecting public and assisted rental assistance programs.

February 14, 2023

Final rule for implementing Sections 102, 103, and 104 of HOTMA published.

- Only Sections 102 and 104 apply to HUD's MFH programs.
- Section 102 changes the requirements related to income reviews.
- Section 104 sets maximum asset limitations.

September 29, 2023

Notice H 2023-10 issued.

- Provides guidance on Section 102.

February 2, 2024

Revised Notice H 2023-10 issued.

- Provides guidance for Sections 104 and technical clarifications.

NOTE: HOTMA more closely aligns MFH and PIH policies.

Program Applicability



Notice H 2023-10 applies only 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: The Asset Limitation provision applies only applies to Section 8 PBRA and Section 202/8. It does not apply to any other MFH programs.

Notice H 2023-10 Compliance Dates



January 1, 2024

Effective date of the Final Rule.

May 31, 2024

MFH Owners must:

- Update their Tenant Selection Plans and EIV policies and procedures to reflect HOTMA rules and discretionary policies.
- Make the updated Tenant Selection Plan and EIV policies and procedures publicly available.

January 1, 2025

MFH Owners **must be fully compliant** with the HOTMA Final Rule.

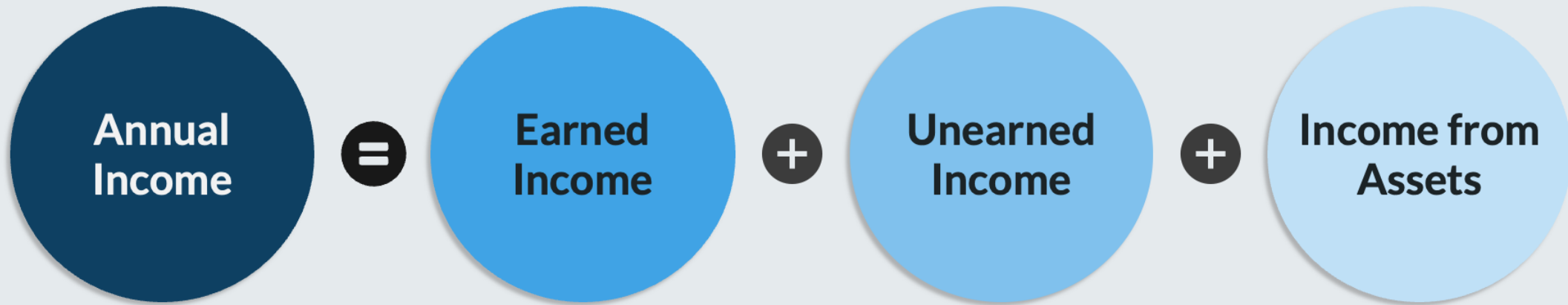
Key Changes in Income Determination

- + Revision of the definition of “annual income.”
- + New definitions, including “day laborer,” “independent contractor,” and “seasonal worker.”
- + A broadened and clarified list of income exclusions.
- + Changes to asset income calculations, including an increased imputed assets threshold from \$5,000 to \$50,000.

See the companion MFH training video HOTMA Net Family Assets.



Expanded Definition of Income



Section 5.609(a) of the HOTMA Final Rule provides an expanded definition of annual income:

Annual income includes, with respect to the family:

- *All amounts, not specifically excluded, 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 income, if available, or imputed income from assets when the net family assets exceed \$50,000.*

¹ Earned income of dependent full-time students in excess of the amount of the deduction for a dependent is excluded from annual income.



Income Inclusions



What's Included: Earned Income

Earned Income:

Includes earnings and income received from:

- Wages
- Tips
- Salaries
- Other employee compensation, such as commission from sales
- Net income from self-employment

Earned income is counted toward annual income if it is earned by:

- Head of household (any age)
- Spouse of the head of household (any age)
- Any family member aged 18 or older (except full-time students—see Income Exclusions)



What's Included: Garnished, Levied & Withheld Wages

Garnished, Levied & Withheld Wages:



If a family member's wages are garnished, levied, or withheld to pay:

- Restitution
- Child support
- Tax debt
- Student loan debt
- Other applicable debt

The Owner **must include the gross income** prior to deductions.

What's Included: Unearned Income

Unearned Income:



Includes amounts received by or on behalf of any adult or minor in the family from:

- Child support and 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

What's Included: Income from Assets

➤ Income from net family assets valued at greater than \$50,000 (adjusted annually for inflation)

must be counted. Net family assets include:

- All real property
- All non-necessary personal property

Actual asset income, such as rental income, interest income, or income from equity is counted as income when available. Note: Actual income from assets can be equal to \$0.

Actual Income:

Income from Asset = Dollar amount earned from asset
(e.g., interest from a loan or equity)

Calculate the imputed return using the following formula when actual income is not available:

$\$ (\text{Net Asset Values}) \times (\text{HUD passbook savings rate}) =$ **Imputed Return**

See the MFH HOTMA training Net Family Assets for more information.

Self-Employment Income

A family's *net income* from the operation of a business is included.

- ▶ An allowance for depreciation of assets **can** be deducted.
- ▶ Cash withdrawals are 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



New Definitions

HOTMA introduced the following definitions into law:

- + **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.

Knowledge Check 1

A family consists of two working adults and three minors. The two adults earn a combined annual income of \$47,000, plus \$520 per month in child support payments.

What is the gross (pre-deduction) income for this family?

- A. \$47,520
- B. \$47,000
- C. \$53,240
- D. \$40,720

Knowledge Check 1 – Answer

A family consists of two working adults and three minors. The two adults earn a combined annual income of \$47,000, plus \$520 per month in child support payments.

What is the gross (pre-deduction) income for this family?

A. \$47,520

B. \$47,000



C. \$53,240

D. \$40,720

Earned income from wages = \$47,000

Unearned income: child support
(\$520 per month \times 12 months) = \$6,240

\$53,240



Income Exclusions



Income Exclusions Summary

Income Exclusions:

- Nonrecurring income
- Lump sum additions to family assets
- Trust distributions
- Family Self Sufficiency Accounts (FSS)
- Live-in aide, foster child, and foster adult income
- Insurance payments or settlements
- Civil rights settlements and judgments
- Civil action recoveries or judgments
- Earned income of dependent full-time students
- Adoption assistance payments
- Veteran Aid and Attendance payments
- Home-based care payments
- Loan proceeds
- Certain payments received by Tribal members
- Exclusions from other Federal statutes
- Housing “gap” payments
- Student financial assistance
- ABLE accounts
- Educational savings accounts
- Self-employment or business **gross** income
- Elimination of Earned Income Disregard (EID)
- Retirement plans

Income Exclusions

The following sources of income should be excluded from a MFH family's income when determining annual income:

➤ Nonrecurring Income

- Income that will not be repeated
- Replaces the “temporary, nonrecurring, or sporadic income (including gifts)”

➤ Examples of nonrecurring income include:

- Decennial census employment
- Economic stimulus payments
- Tax refunds or tax credit payments
- Certain gifts
- Non-monetary in-kind donations



Income Exclusions: Lump-Sum and Trust Distributions



- ④ Lump-sum additions to family assets, such as lottery and other contest winnings
- ④ Trust Distributions
 - Payments or distributions from the *principal* of a trust

NOTE: Owners must count distributions of any income (e.g., interest earned) from a trust as actual income, except for distributions used to pay for the **health or education of a minor**.

Income Exclusions Continued

▶ Family Self Sufficiency Accounts (FSS)

- Income earned on amounts placed in a family's Family Self Sufficiency (FSS) account

▶ Live-in Aide, Foster Child, and Foster Adult Income

- Funds earned by or received on behalf of foster children and adults
 - Includes state or tribal kinship payments
- Income earned by a live-in aide

NOTE: Foster children and adults are considered members of the household and are considered when determining family size. However, their income and assets are not included when calculating income.



Income Exclusions Continued



▶ Insurance Payments or Settlements

- Payments from judgments or settlements

NOTE: Periodic insurance payments received at regular intervals for longer than one year ***are not excluded*** and must be considered part of a family's annual income.

▶ Civil Rights Settlements and Judgments

- Includes settlements or judgments for back pay

▶ Civil Action Recoveries or Judgments

- Amounts recovered in a civil action or settlement

Income Exclusions: Student Earned Income



▶ 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 is excluded from annual income.

- Full-time students must be dependent family members.
- This exclusion does not apply to the head of household, spouse, or co-head.

▶ 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.

▶ NOTE: Full-time dependent students are eligible to receive *both* the dependent deduction and the full-time student income exclusion.

Income Exclusions Continued

▶ Adoption Assistance Payments

- Payments in excess of \$480 per dependent, to be adjusted for inflation

▶ Veterans Regular Aid and Attendance Payments

- Payments to veterans who served during periods of war

NOTE: 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



Income Exclusions Continued



➤ Loan Proceeds

➤ Certain Payments Received by Tribal Members

- Payments received by Tribal Members from claims of mismanagement of assets held in trust by the United States
- Applies only if payments are also excluded from a family's gross income as in the following:
 - Cobell Settlements
 - Tribal Trust Settlements

Income Exclusions Continued

- ▶ Exclusions from Other Federal Statutes
- ▶ Housing “Gap” Payments
 - Payments to families displaced from federally subsidized housing

NOTE: If the family continues to receive payments after it finds housing, the payments must count as income.



Income Exclusions: Student Financial Assistance



▶ Student Financial Assistance

- Financial assistance amounts paid to or on behalf of students
- Any amount in excess of tuition and associated fees is included in a family's income

Income Exclusions: Student Financial Assistance

- ▶ HUD's 2023 appropriation includes a limit for Section 8 students receiving Federal aid.
 - For assisted students:
 - Who are head of household (HoH) or spouse, under age 23, or without dependent children, **amounts in excess of tuition and associated fees *will* count as income.**
 - Who are HoH students or spouse, aged 23 or older, AND have dependent children, assistance received to cover reasonable living costs is excluded.
 - This limit only applies to years when the Section 8 Limitation language is included in HUD's appropriation.



Income Exclusions Continued



▶ ABLA Accounts

- Distributions from ABLA accounts are excluded.

▶ Educational Savings Accounts

- Income and distributions from Coverdell educational savings accounts or “baby bond” accounts are excluded.

▶ Gross Income from Self-Employment or Operation of a Business

- Gross income received by a family prior to the deduction of business expenses is excluded.
- The **net income** is counted as annual income.

▶ Elimination of the Earned Income Disregard (EID)

- HUD is phasing out the EID program.

Income Exclusions: Retirement Plans

▶ Retirement Plans

- Income or equity earned by any IRS-recognized retirement plan is excluded.

NOTE: Any **distribution** from a retirement account is considered income.



Exclusions



For the full details regarding exclusions, please refer to:



Section 5.609(b)(3) of the [HOTMA Final Rule](https://www.hud.gov/sites/dfiles/PA/documents/6057-F-03-HOTMA-Income-Final-Rule.pdf), which can be found at:
<https://www.hud.gov/sites/dfiles/PA/documents/6057-F-03-HOTMA-Income-Final-Rule.pdf>

Or



[Notice H 2023-10 - Implementation Guidance: Sections 102 and 104 of the Housing Opportunity Through Modernization Act of 2016 \(HOTMA\)](https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-10hsgn.pdf), which can be found at:
<https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-10hsgn.pdf>

Knowledge Check 2

Select all the following forms of income that count towards a Multifamily Housing family's annual income:

- A. A \$5,000 wedding present
- B. Tips earned from working as a bartender
- C. A \$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 the local supermarket
- I. Social Security disability payments
- J. Monthly alimony payments

Knowledge Check 2 Answer

Select all the following forms of income that count towards a Multifamily Housing family's annual income:

- A. A \$5,000 wedding present
- ✓ B. **Tips earned from working as a bartender**
- C. A \$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**

Resources



HOTMA Final Rule:

<https://www.hud.gov/sites/dfiles/PA/documents/6057-F-03-HOTMA-Income-Final-Rule.pdf>



Notice H 2023-10, Implementation Guidance: Section 102 and 104 of HOTMA:

<https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-10hsgn.pdf>



HUD Multifamily Housing HOTMA Page:

https://www.hud.gov/program_offices/housing/mfh/hotma



Summary of Key HOTMA Changes:

https://www.hud.gov/sites/dfiles/Housing/documents/HOTMA_One_pager.pdf



List of Discretionary Policies to Implement HOTMA:

https://www.hud.gov/sites/dfiles/Housing/documents/MFH_List_Discretionary_Policies_Implement_HOTMA.pdf



HUD User Inflationary Adjustment Page:

<https://www.huduser.gov/portal/datasets/inflationary-adjustments-notifications.html>



Thank you!

For technical assistance or for additional information,
please contact the Multifamily Housing HOTMA
Help Desk.

MFH_HOTMA@hud.gov
