

**Fact Sheet**  
**For HUD Assisted Residents**  
**Project-Based Section 8**  
**How Your Rent is Determined**

**Office of Housing**

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*This Fact Sheet is a general guide to inform the Owner/Management Agents and HUD-assisted Residents of the responsibilities and rights regarding income disclosure and verification.*

**Why Determining Income and Rent Correctly is Important**

Department of Housing and Urban Development studies show that many resident families pay incorrect rent. The main causes of this problem are:

- Under-reporting of income by resident families, and:
- OA's not granting exclusions and deductions to which resident families are entitled.

OA's and residents all have a responsibility to ensure that the correct rent is paid.

**OA'S Responsibilities**

- Obtain accurate income information
- Verify resident income
- Ensure residents receive the exclusions and deductions to which they are entitled
- Accurately calculate tenant rent
- Provide tenant with a copy of the Lease Agreement and Income and rent determinations; recalculate rent when changes in family composition are reported
- Recalculate rent when family income decreases
- Recalculate rent when resident income increases by \$200 or more per month
- Recalculate rent every 90 days when resident claims minimum rent hardship exemption
- Provide information on OA policies upon request
- Notify residents of any changes in requirements or practices for reporting income or determining rent

**Resident Responsibilities**

- Provide accurate family composition information
- Report all income

- Keep copies of papers, forms and receipts which document income and expenses
- Report changes in family income occurring between annual recertifications
- Sign consent forms for verification
- Follow Lease requirements and house rules

### **Income Determinations**

A family's anticipated gross income determines not only eligibility for assistance, but also determines the rent a family will pay and the subsidy required from HUD. The anticipated income, subject to exclusions and deductions the family will receive during the upcoming 12 months, is used to determine the family's rent.

#### **What is Annual Income?**

Gross Income – Income Exclusions = Annual Income

#### **What is Adjusted Income?**

Annual Income – Deductions = Adjusted Income

### **Determining Tenant Rent**

#### **Project-Based Section 8 Rent Formula**

The rent a family will pay is the **highest** of the following amounts:

- 30 percent of the family's *adjusted* income
  - 10 percent of the family's monthly income
  - Welfare rent or welfare payment from agency to assist family in paying housing costs
- Or
- \$25.00 minimum rent per month

### **Income and Assets**

HUD assisted residents are required to report **all** income from all sources to the Owner or Agent (OA). Exclusions to income and deductions are part of the tenant rent process.

When determining the amount of income from assets to be included in annual income, the actual income derived from the assets is included, except when the cash value of all the assets is in excess of \$5,000. Then, the amount included in annual income is the higher of 2% of the total assets or the actual income derived from the assets.

#### **Annual Income Includes**

- Full amount (before payroll deductions) of wages and salaries, overtime pay, commissions, fees, tips and bonuses and other compensation for personal services
- Net income from the operation of a business or profession
- Interest, dividends and other net income of any kind from real or personal property (See Assets Include/Assets Do Not Include section below)
- Full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types periodic receipts, including lump-sum amounts or prospective monthly amounts for the delayed start of a periodic amount (except for deferred periodic payments of supplemental security income and social security benefits, see Exclusions from Annual Income section below)
- Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except for lump-sum additions to family assets, see Exclusions from Annual Income below)

- Welfare assistance
- Periodic and determinable allowances, such as alimony and child support payments and regular contributions or gifts received from organizations or from persons not residing in the dwelling
- All regular pay, special pay and allowances of a member of the Armed Forces (except for special pay for exposure to hostile fire)
- For Section 8 Programs only: any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965, shall be considered income to that individual, except that financial assistance is not considered annual income for persons over the age of 23 with dependent children or if a student is living with his or her parents who are receiving Section 8 assistance. For the purpose of this paragraph, "financial assistance," does not include loan proceeds for the purposes of determining income

#### **Assets Include**

- Stocks, bonds, Treasury Bills, certificates of deposit, money market accounts
- Individual retirement and Keogh accounts
- Retirement and pension funds
- Cash held in savings and checking accounts, safe deposit boxes, homes, et cetera
- Cash value of Whole Life Insurance policies available to the individual before death
- Equity in rental property and other capital investments
- Personal property held as an investment
- Lump-sum receipts or one-time receipts
- Mortgage of Deed of Trust held by an applicant
- Assets disposed of for less than fair market value

#### **Assets Do Not Include**

- Necessary personal property (clothing, furniture, cars, wedding rings, vehicles specially equipped for people with disabilities)
- Interest in Indian Trust Land
- Term Life Insurance policies
- Equity in the cooperative unit in which the family lives
- Assets that are a part of an active business
- Assets that are not effectively owned by the applicant or held in an individual's name, but:
  - (a) The assets and any income they earn accrue to the benefit for someone else who is not a member of the household; and
  - (b) That other person is responsible for income taxes incurred on the income generated by the assets that are not accessible to the applicant and provide no income to the applicant (Example: A battered spouse owns a house with her husband, but she receives no income from the asset and cannot convert it to cash)
- Assets disposed of for less than fair market value as a result of:
  - Foreclosure
  - Bankruptcy
  - Divorce or separation agreement if the applicant or resident receives important consideration, not necessarily in money

#### **Exclusions from Annual Income**

- Income from the employment of children (including foster children) under the age of 18
- Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone)
- Lump-sum additions to the family assets, such as inheritances, insurance payments (including payments under health and accident insurance and Worker's Compensation), capital gains and settlement for personal or property losses

- Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member
- Income of a live-in Aide
- Subject to the inclusion of income for the Section 8 Program for students who are enrolled in an institution of higher education under Annual Income; includes the full amount of student financial assistance, either paid directly to the student or to the educational institution
- The special pay to a family member serving in the Armed Forces who is exposed to hostile fire
- Amounts received by a person with a disability that is disregarded for a limited time for the purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS)
- Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement for out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, et cetera) and which are made solely to allow participation in a specific program
- Resident service stipend (not to exceed \$200 per month)
- Incremental earnings and benefits resulting to any family member from participation in qualifying state or local employment training programs and training of a family member such as resident management staff
- Temporary, non-recurring or sporadic income (including gifts)
- Reparation payments by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era
- Earnings in excess of \$480 for each full-time student, 18 years old or older (especially head of household or co-head of household or spouse)
- Adoption assistance payments in excess of \$480 per adopted child
- Deferred periodic payments of supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts
- 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
- Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the costs of services and equipment needed to keep the developmentally disabled family member at home

#### **Federally Mandated Exclusions**

- Value of the allotment provided to an eligible household under the Food Stamp Act of 1977
- Payments to Volunteers under the Domestic Volunteer Services Act of 1973
- Payments received under the Alaska Native Claims Settlement Act
- Income derived from certain submarginal land of the US that I held in trust for certain Native American tribes
- Payments or allowances made under the Department of Health and Human Services ' Low Income Home Energy Assistance Program
- Payments received under programs funded in whole or in part under the Job Training Partnership Act
- Income derived from the disposition of funds to the Grand River Band of Ottawa Native American Indians
- The first \$2,000 per capita of shares received from judgment funds awarded by the Native American Claims Commission or the US Claims Court, the interests of individual Native Americans in trust or restricted lands, including the first \$2,000 per year of income
- Amounts of scholarships funded under the Title IV of the Higher Education Act of 1965, including awards under the federal work study program or under the Bureau of Native American Indian Affairs student assistance programs
- Payments received from programs funded under Title V of the Older Americans Act of 1985
- Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *Re Agent-product liability* litigation
- Payments received under the Maine Native American Indian Claims Settlement Act of 1980

- The value of any child care program 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 Developmental Block Grant Act of 1990
- Earned income tax credit (EITC) refund payments on or after January 1, 1991
- Payments by the Native American Indian Claims Commission to the Confederated Tribes and Bands of the Native American Yakima Nation or the Apache Tribe of Mescalero Reservation
- Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990
- Any allowance paid under the provisions of 38 USC 1805 to a child suffering from spine bifida who is the child of a Vietnam Veteran
- Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act
- Allowances, earnings and payments to individuals participating under the Workforce Investment Act of 1998

#### **Deductions**

- \$480 for each dependent including full-time students or persons with a disability
- \$400 for any elderly family or disabled family member
- Unreimbursed medical expenses of any elderly family or disabled family that total more than 3 percent of annual income
- Unreimbursed reasonable attendant care and auxiliary apparatus expenses for disabled family members to allow family members to work that total more than 3 percent of Annual Income
- If an elderly family has both unreimbursed medical expenses and disability assistance expenses, the family's 3 percent of income expenditures is applied only one time
- Any reasonable child care expenses for children under the age of 13 necessary to enable a member of the family to be employed or to further his or her education

### **Reference Materials**

#### **Legislation**

- Quality Housing and Work Responsibility Act of 1998, Public Law 105-276, 112 Stat. 2518 which amended the United States Housing Act of 1937, 42 USC 2437, et seq.

#### **Regulations**

- General HUD Program Requirements; 24 CFR Part 5

#### **Handbook**

- 4350.3, Occupancy Requirements of Subsidized Multifamily Housing Programs

#### **Notices**

*"Federally Mandated Exclusions,"* Notice 66 FR 4669, April 20, 2001

**For More Information** and to find out more about HUD's programs go to HUD's internet home page at <http://www.hud.gov>