HOTMA Regulatory Notice to Residents

Effective for New Admissions, Annual Recertification and Interims dated July 1, 2025, and after, HUD requires PHA's to implement and communicate to residents the requirements of the Housing Opportunity Through Modernization Act of 2016 (HOTMA) that either have been implemented or will be implemented July 1, 2025.

Background

HOTMA was signed into law on July 29, 2016 (Pub. L. 114-201). The final rule implementing Sections 102 and 104 of HOTMA (88 FR 9600) became effective January 1, 2024. HUD initially provided, in the HOTMA Section 102 and 104 Implementation (Notice PIH 2023-27),3 that PHAs could set a compliance date between January 1, 2024, and January 1, 2025, based on when the PHA's software could submit to HUD.

However, due to further HUD IT system development delays, HUD will not enforce compliance with all Section 102 and 104 income and assets provisions by January 1, 2025. PHAs will not have software capable of submitting HOTMA-compliant forms to HUD by January 1, 2025, because HUD system development has not been completed. HUD will issue further guidance on the deadline to comply with any outstanding provisions of Sections 102 and 104 and will provide regular updates on the progress of HUD systems development.

The following compliance requirements include some new and some revised income exclusions, definitions and de minimis errors. This is NOT a comprehensive listing of all policies and procedures of DHA.

DHA intends to continue communication with residents as further progress is made with HUD software system to enable all PHA's to be fully compliant with HOTMA.

DHA's compliance with HOTMA Prior to July 1, 2025:

- Earned Income Disregard - DHA ceased enrolling families into the Earned Income Disregard (EID) program as of December 31, 2023.
- Form HUD 9886-A - DHA began requiring this form (Authorization for the Release of Information/Privacy Act Notice) as of January 1, 2024. This form is effective from the date signed until the resident has moved out or is terminated from a DHA program.
    - It is the policy of DHA to reject applicants or terminate residents if they fail to sign and/or revoke their authorization of HUD-9886-A form.

DHA's compliance with HOTMA Effective July 1, 2025:

Definitions
Income Exclusions
De Minimis Errors

Definitions:
The following definitions will be used for all transactions with an effective date on or after July 1, 2025. **(NOTE: The adoption of some of the new or revised definitions below may affect the calculation for certain income exclusions.)**

Definition of Annual Income

Income Definitions — 24 CFR 5.609 (a):
Income is now defined broadly with an expanded and clarified list of income exclusions. Annual income includes all amounts received from all sources by each adult family member 18 years or older or the head of household or their spouse, plus unearned income by or on behalf of each dependent under 18 years, plus income from assets.

Annual income includes, with respect to the family:
(1) All amounts, not specifically excluded in paragraph (b) of this section, 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 in accordance with 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.

Definition of Family
Revised definition to also include a Single Person who:

- Is an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age
- Has left foster care (or will within 90 days)
- Is homeless or is at risk of becoming homeless at age 16 or older

Definition of Dependent
Revised definition to explicitly exclude foster children and foster adults.

Definition of Foster Adult and Foster Child

- Foster adult is defined as a member of the household who is 18 years or older and meets the definition of a foster adult under State Law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.
- Foster child is now defined as a member of the household who meets the definition of a foster child under State law. In general, a foster child is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

- Foster Adults/Children are NOT considered family members and must not be included in calculations of income for eligibility and rent determinations, HOWEVER, they ARE considered household members for determining unit size or subsidy standards. (Note: Some exceptions to children under 13 for reasonable unreimbursed child-care expenses)
- Definition of dependent now explicitly excludes foster adults/children so NO dependent deduction is allowed, and any income earned/expenses incurred related to foster adults/children are not considered to be, family income/expenses.

(From NCDHHS - Foster Child - Abused and/or neglected child - Judge has to approve, and the child is then referred to local department of social services then takes custody of the at-risk child(ren) and places in approved licensed foster home)

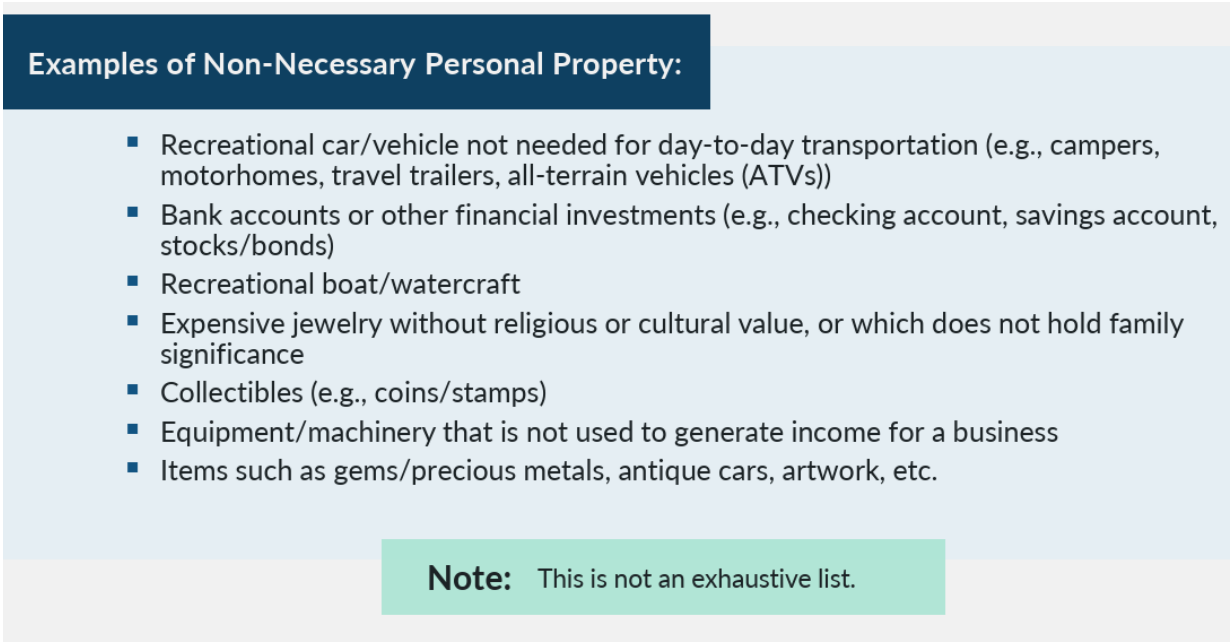
Definition of Earned Income
Earned Income is defined as income or earnings from wages, tips, salaries, other employee compensation, and net income from self-employment. Earned income does not include any pension or annuity, transfer payments (meaning payments made or income received in which no goods or services are being paid for, such as welfare assistance, Social Security, and other governmental subsidies/benefits), or any cash or in-kind benefits.

Definition of Day Laborer
A day laborer is defined as 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.
Income earned as a day laborer is not considered nonrecurring income.

Definition of Independent Contractor
An independent contractor is an individual who qualifies as an independent contractor instead of an employee in accordance with the Internal Revenue Code federal income tax requirements and whose earnings are consequently subject to the self-employment tax. In general, an individual is an independent contractor if they have the right to control or direct only the conduct of the work. For example, while instructions and route information are generally provided, third-party delivery and transportation service providers are considered independent contractors unless state law dictates otherwise. In addition, individuals considered "gig workers," such as babysitters, landscapers, rideshare drivers, and house cleaners, typically fall into the category of independent contractor. Income earned as an independent contractor is not considered nonrecurring income.

Definition of Necessary Personal Property:
Necessary personal property is defined as items that are essential for the family's daily life, including items needed for employment, education, or health, and personal effects. These assets are excluded from net family assets and are not included in the asset limitation calculations.

Definition of Non-Necessary Personal Property:
Non-necessary personal property includes items that are not essential for daily life, such as bank accounts, investments, or luxury items. The combined value of non-necessary personal property, up to a specific limit (currently $50,000, adjusted for inflation), is also excluded from net family assets.



Definition of Seasonal Worker
A seasonal worker is defined as an individual who is: 1) hired into a short-term position (e.g., for which the customary employment period for the position is 6 months or fewer);

and 2) the employment begins about the same time each year (such as summer or winter). Typically, the individual is hired to address seasonal demands that arise for the employer or industry. Some examples of seasonal work include employment limited to holidays or agricultural seasons. Seasonal work may include but is not limited to employment as a lifeguard, ballpark vendor, or snowplow driver.
Income earned as a seasonal worker is not considered nonrecurring income.

Definition of Unearned Income
Unearned income means any annual income, as calculated under 24 CFR § 5.609, that is not earned income.

Income Exclusions:
Below is the chart listing of income inclusions including the Regulatory reference (CFR) related to the exclusion. These exclusions are effective for new admissions, annual reexaminations or interim reexaminations dated July 1, 2025, or later.

- Category: Other
  - Exclusion: Federally Mandated Income Exclusions
  - CFR: 24 CFR 5.609(b)(22)
  - Description: Amounts that must be excluded by the federal statute. HUD will publish a Federal Register notice that includes the qualifying benefits.

- Category: Assets
  - Exclusion: Imputed Income from Assets
  - CFR: 24 CFR 5.609(b)(1)
  - Description: 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.

- Category: Non-recurring income
  - Exclusion: Non-recurring income
  - CFR: 24 CFR 5.609(b)(24)
  - Description: Income that will not be repeated in the coming year based on information provided by the family.

- Category: Self-employment
  - Exclusion: Gross Self-employment Income
  - CFR: 24 CFR 5.609(b)(28)
  - Description: Gross income received through self-employment or the operation of a business

- Category: Dependents
  - Exclusion: Minors (children under the age of 18 years)
  - CFR: 24 CFR 5.609(b)(3)
  - Description: All earned income of all children under the age of 18, including foster children.

- Category: Dependents
  - Exclusion: Adoption assistance payments
  - CFR: 24 CFR 5.609(b)(15)
  - Description: Adoption assistance payments for a child in excess of the amount of the dependent deduction.

- Category: Students
  - Exclusion: Earned Income of Dependent Students
  - CFR: 24 CFR 5.609(b)(14)
  - Description: Earned income of dependent full-time students in excess of the amount of the dependent deduction.

- Category: Students
  - Exclusion: Title IV HEA Assistance
  - CFR: 24 CFR 5.609(b)(9)(i)
  - Description: Any assistance that Section 479B of the Higher Education Act (HEA) of 1965, as amended, requires to be excluded from a family's income.

- Category: Students
  - Exclusion: Other Student Financial Assistance
  - CFR: 24 CFR 5.609(b)(9)(ii)
  - Description: Student financial assistance, not excluded under the HEA, for actual covered costs of higher education.
  - Any amount of other assistance, such as scholarships or grants not covered under HEA or BIA, that exceeds actual covered costs of the student will be included in annual income. Tis can include grants or scholarships received from the Federal government, a state or local government, a private non-profit foundation, a business entity, or an institution of higher education.

- Category: Students
  - Exclusion: Educational Savings Account
  - CFR: 24 CFR 5.609(b)(10)
  - Description: Income and distributions from any Coverdell educational savings account or any qualified tuition program under IRS section 530 or any qualified tuition program under section 529.

- Category: Baby bonds
  - Exclusion: Baby bonds
  - CFR: 24 CFR 5.609(b)(10)
  - Description: Income earned by government contributions to, or distributions from, "baby bond" accounts created, authorized or funded by federal, state or local government.

- Category: Foster children / adults

- Exclusion: Payments for Foster Children / Adults
- CFR: 24 CFR 5.609(b)(4)
- Description: Payments received for the care of foster children or adults, including State kinship, guardianship care payments, or tribal kinship payments.

- Category: Foster children / adults
  - Exclusion: Income of foster children / adults
  - CFR: 24 CFR 5.609(b)(8)
  - Description: Income of a live-in aide, foster child, or foster adult as defined in 24 CFR 5.403 and 5.603.

- Category: Live-in Aide
  - Exclusion: Income of a Live-in Aide
  - CFR: 24 CFR 5.609(b)(8)
  - Description: Income of a live-in aide, foster child, or foster adult.

- Category: People with Disabilities
  - Exclusion: ABLE accounts
  - CFR: 24 CFR 5.609(b)(22)
  - Description: Will be included in federally mandated excluded amounts. Notice PIH 2019-09/H-2019-06 details when ABLE account income is excluded.

- Category: People with Disabilities
  - Exclusion: State Payments to Allow Individuals with Disabilities to Live at Home
  - CFR: 24 CFR 5.609(b)(19)
  - Description: 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.

- Category: People with Disabilities
  - Exclusion: Plan to Attain Self-Sufficiency (PASS)
  - CFR: 24 CFR 5.609(b)(12)(i)
  - Description: Amounts set aside for use under a Plan to Attain Self-Sufficiency (PASS).

- Category: People with Disabilities
  - Exclusion: Reimbursements for Health and Medical Care Expenses
  - CFR: 24 CFR 5.609(b)(6)
  - Description: Amounts for, or in reimbursement of, health and medical care expenses for any family member.

- Category: Trusts

- Exclusion: Trust distributions
- CFR: 24 CFR 5.609(b)(2)
- Description: Any distributions of a trust's principal are excluded. PHAs and owners must count any distributions of income from an irrevocable trust or a trust not under the control of the family (e.g., distributions of earned interest) as income to the family with the expectation of distributions used to pay the health and medical care expenses of a minor.

- Category: Insurance
  - Exclusion: Insurance payments and settlements for personal or property loss
  - CFR: 24 CFR 5.609(b)(5)
  - Description: Insurance payments and settlements for personal or property loss including, but not limited to: payments through health insurance, motor vehicle insurance, and workers' compensation.

- Category: Retirement
  - Exclusion: Retirement plan
  - CFR: 24 CFR 5.609(b)(26)
  - Description: Income received from any account under an IRS-recognized retirement plan. However, periodic payments are income at the time of receipt.

- Category: Military
  - Exclusion: Hostile fire special payment
  - CFR: 24 CFR 5.609(b)(11)
  - Description: The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

- Category: Veterans
  - Exclusion: Veterans aid and attendance payments
  - CFR: 24 CFR 5.609(b)(17)
  - Description: Payments related to aid and attendance for veterans under 38 U.S.C. 1521.

- Category: Lawsuits
  - Exclusion: Lawsuit Settlements
  - CFR: 24 CFR 5.609(b)(7)
  - Description: 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.

- Category: Lawsuits
  - Exclusion: Reparations for Persecution
  - CFR: 24 CFR 5.609(b)(13)

- Description: Reparation payments paid by a foreign government for claims by people persecuted during the Nazi era.

- Category: Lawsuits
  - Exclusion: Tribal Claims Payments
  - CFR: 24 CFR 5.609(b)(21)
  - Description: Payments received by tribal members from claims relating to the mismanagement of assets held in trust by the United States.

- Category: Lawsuits
  - Exclusion: Lawsuits related to civil rights
  - CFR: 24 CFR 5.609(b)(25)
  - Description: Civil rights settlements or judgments, including settlements or judgments for back pay.

- Category: Reimbursements
  - Exclusion: Reimbursements from publicly assisted programs
  - CFR: 24 CFR 5.609(b)(12)(ii)
  - Description: 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, childcare, etc.).

- Category: Resident Services Stipend
  - Exclusion: Resident Services Stipend
  - CFR: 24 CFR 5.609(b)(12)(iii)
  - Description: 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.

- Category: Employment training programs
  - Exclusion: Employment training programs
  - CFR: 24 CFR 5.609(b)(12)(iv)
  - Description: Incremental earnings and benefits from training programs HUD and qualifying employment training programs and training of a family member as resident management staff.

- Category: FSS
  - Exclusion: Family Self Sufficiency Account
  - CFR: 24 CFR 5.609(b)(27)
  - Description: Income earned on amounts placed in a family's FSS account.

- Category: Housing gap payments
  - Exclusion: Housing "gap" payments
  - CFR: 24 CFR 5.609(b)(23)

- Description: Replacement housing "gap" payments to offset increased rent and utility costs to families displaced from one federally subsidized housing unit and another.

- Category: Benefits
  - Exclusion: Deferred Supplemental Security Income, SS income and benefits, or VA disability benefits
  - CFR: 24 CFR 5.609(b)(16)
  - Description: 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.

- Category: Property tax rebates
  - Exclusion: Property Tax Rebates
  - CFR: 24 CFR 5.609(b)(18)
  - Description: Refunds or rebates under state or local law for property taxes paid on the dwelling unit.

- Category: Loans
  - Exclusion: Loan Proceeds
  - CFR: 24 CFR 5.609(b)(20)
  - Description: The net amount disbursed by a lender to a borrower or a third party (e.g., educational institution or car dealership).

De Minimis Errors:
DHA will not be considered out of compliance solely due to de minimis errors in calculating family income. De minimis errors occur when DHA's determination of a family's income deviates from the correct income determination by no more than $30 per month in monthly adjusted income (or $360 in annual adjusted income). HUD may revise the threshold amount that constitutes a "de minimis error" through rulemaking. DHA will not be issued a finding by HUD or the Contract Administrator (MFH only) for de minimis errors in income calculation.

As DHA becomes aware of the existence of an income calculation error, they are obligated to correct the error(s) retroactive to the effective date of the action the error was made regardless of the dollar amount associated with the error. DHA must take corrective action to credit or repay a family if the family was overcharged tenant rent, including when DHA make de minimis errors in the income determination. Families will not be required to repay DHA in instances where the DHA miscalculated income resulting in a family being undercharged for rent.

Resident Resources for HOTMA can be located at:
https://www.hudexchange.info/programs/hotma/hotma-income-and-assets/#resident-resources

Please note that any reference to changes NOT listed above will not be implemented with this notice. Again, DHA will continue to communicate with residents as HUD continues to update their software systems and implement additional compliance regulations.