

Income Inclusions and Exclusions

Unofficial Updated List Provided by Ross Business Development, Inc.

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HUD published “Federally Mandated Exclusions From Income –Updated Listing” (Docket No. FR-5741-N-01) in the *Federal Register*, www.gpo.gov/fdsys/pkg/FR-2014-05-20/pdf/2014-11688.pdf. This updates the list of exclusions last published on April 20, 2001, and July 17, 2012 and December 14, 2012 (Docket No. FR-5635-N-01) by amending and adding exclusions. An updated list of income exclusions specifically mandated by federal laws was published in the *Federal Register* on May 20, 2014, as Docket No. FR-5741-N-01 <https://www.federalregister.gov/articles/2014/05/20/2014-11688/federally-mandated-exclusions-from-income-updated-listing>.

There were three new exclusions and changes to two of the existing exclusions. And, due to the addition of (xvi), the exclusions following it have been re-numbered. Please remember that there are several other income exclusions in Handbook 4350.3 that are mandated by HUD, rather than by Congress.

In response, RBD has compiled an updated list of income inclusions and exclusions based on 24CFR 5.609 which can be found at <http://www.gpo.gov/fdsys/pkg/CFR-2012-title24-vol1/xml/CFR-2012-title24-vol1-sec5-609.xml>, the new Federal Register Notice, 4350.3 Revision 1 Handbook Instruction and other sources as noted. This document is meant to act as an updated unofficial supplement to Exhibit 5-1 of HH 4350.3, R1, C4 which does not include recent changes to 24 CFR.

In response to the COVID-19 pandemic of 2020 and 2021, HUD also provided guidance explaining how owner/agents should treat assistance payments provided by federal and state authorities.

FAMILY INCOME AND FAMILY PAYMENT; OCCUPANCY REQUIREMENTS FOR SECTION 8 PROJECT-BASED ASSISTANCE FAMILY INCOME § 5.609 ANNUAL INCOME.

Annual income means all amounts, monetary or not, which:

- (1) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
- (2) Are anticipated to be received from a source outside the family during the 12-month period following admission or annual reexamination effective date; and
- (3) Which are not specifically excluded in Income Exclusions.

Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.

ANNUAL INCOME INCLUDES, BUT IS NOT LIMITED TO:

- (1) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services;
- (2) The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations.
Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
- (3) Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (2) above. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family.

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Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD; *(Note from RBD – The current passbook rate changes from 2% to .06% as of February 1, 2015. See [HUD HSG Notice 14-15 Passbook Savings Rate Effective February 1, 2015 and Establishing Future Passbook Savings Rates](#) and [HUD HSG Notice 16-01 Passbook Savings Rate Effective February 1, 2016](#))*

- (4) The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in paragraph (13) of Income Exclusions below); *(Note from RBD: Owner/agents must use the gross award amount, including cents if cents are indicated on the verification document. Please note HH 4350.3 RI, C4, Paragraph 5-6-J “If an agency is reducing a family's benefits to adjust for a prior overpayment - e.g., social security, SSI, TANF, or unemployment benefits-count the amount that is actually provided after the adjustment.” If the gross amount is reduced to cover unpaid child support, unpaid student loans, unpaid taxes, etc. the owner/agent continues to use the gross amount or the gross amount less any repayment for a prior overpayment as appropriate.)*
- (5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in paragraph (3) of Income Exclusions below);
- a) During the Coronavirus-19 pandemic of 2020/2021, the federal government provided specific instruction about benefits provided under the unemployment program. Unemployment payments distributed under the CARES Act and Coronavirus Response And Relief Supplemental Appropriations Act should be treated as follows (See [HUD's Multifamily Housing COVID-19 Q&A](#)):
- (i) **Section 2102: Pandemic Unemployment Assistance (PUA).** This is an unemployment benefit for individuals who are self-employed, seeking part-time employment, or whom otherwise would not qualify for regular unemployment insurance (UI). **HUD has determined that PUA benefits must be included as annual income.**
- (ii) **Section 2104: Federal Pandemic Unemployment Compensation (FPUC) program.** This program provides eligible individuals who are collecting certain UI benefits, including regular unemployment compensation to receive an additional \$600 in federal benefits per week for weeks of unemployment ending on or before July 31, 2020. HUD has determined that **FPUC benefits meet the definition of temporary income and must NOT be included in annual income.**
- (iii) **Section 2107: Pandemic Emergency Unemployment Compensation (PEUC) program.** This program provides an extension to regular unemployment insurance benefits for eligible individuals, allowing them to receive up to 13 weeks of additional benefits (this extends UI from 26 weeks to 39 weeks in total). **HUD has determined that PEUC benefits must be included in annual income.**

Note: See also The 2021 Consolidated Appropriations Act (2021 Appropriations) and the American Rescue Plan of 2021 (ARP) toward the end of this document.

- (6) Welfare Assistance payments. (i) Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income only to the extent such payments:
- a) Qualify as assistance under the TANF program definition at 45 CFR 260.31; and
- b) Are not otherwise excluded under Income Exclusions.
- (i) If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:
1. The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

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2. The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from one application of the percentage.
- (7) 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;
- (8) All regular pay, special pay and allowances of a member of the Armed Forces (except as provided in paragraph (7) of Income Exclusions).
- (9) For section 8 programs only and as provided in 24 CFR 5.612, any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income to that individual, except that financial assistance described in this paragraph is not considered annual income for persons over the age of 23 with dependent children. For purposes of this paragraph, "financial assistance" does not include loan proceeds for the purpose of determining income. *(Note from RBD – HUD HQ has indicated that the definition of "over the age of 23": is 23 years and one day) (Note from RBD: 24 CFR and HH 4350.3 are slightly different. Please note the additional exception noted in HH 4350.3, R1, C4, Paragraph 5-6-E For students receiving Section 8 assistance, all financial assistance a student receives (1) under the Higher Education Act of 1965, (2) from private sources, or (3) from an institution of higher education that is in excess of amounts received for tuition is included in annual income except if the student is over the age of 23 with dependent children **or the student is living with his or her parents who are receiving Section 8 assistance.** See Paragraph 3-13 for further information on eligibility of students to receive Section 8 assistance and the Glossary for the definition of Student Financial Assistance.)*

ANNUAL INCOME DOES NOT INCLUDE THE FOLLOWING (INCOME EXCLUSIONS):

- (1) Income from employment of children (including foster children) under the age of 18 years;
- (2) 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); *(Note from RBD: HUD Notice PIH-2012-1 (HA) dated January 6, 2012, which was issued by the HUD Office of Public and Indian Housing, and which concerns "Income Exclusion of Kinship, Kin-GAP and Other Guardianship Care Payments". This applies to Public and Indian Housing (PIH) rental assistance programs, and states that "kinship care, Kin-GAP and similar programs funded by states serve as an alternative to foster care placements and . . . compensation to participating relatives or legal guardians is comparable to the compensation to foster care parents" It goes on to state that such payments should therefore be excluded from a household's income. We have confirmed with HUD HQ that this income is excluded under the multi-family housing program as well.)*
- (3) Lump-sum additions to 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 (except as provided in paragraph 5) of Income Inclusions);
- (4) Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member;
(Note from RBD: HUD has a web site with a Q&A that specifically addresses this question. See https://portal.hud.gov/hudportal/documents/huddoc?id=DOC_9175.pdf. Clarification was also provided via HUD's RHIIP ListServ Posting #284 October 29, 2012 which can be found on HUD's web site at http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mflh/rhiip/mflhrhiip. VA Aid and Attendance and VA Housebound allowances may be excluded under 24 CFR §5.609(c)(4), which excludes amounts received by a family "specifically for, or in reimbursement of, the cost of medical expenses for any family member." Live-in or periodic medical assistance and services of doctors and health care professionals are among the services that can be counted as medical expenses. Verify with the VA the amount received by the Veteran for Aid and Attendance or Housebound benefits. The portion of the total benefit amount that the Veteran uses for medical expenses must be excluded from income. Any portion of the allowance not going towards such expenses would continue to be counted as income when computing the family's share of the rent.)

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- (5) Income of a live-in aide, as defined in 24 CFR 5.403;
- (6) Subject to information regarding income exclusions, the full amount of student financial assistance paid directly to the student or to the educational institution;
(Note from RBD – All forms of student financial assistance-grants, scholarships, educational entitlements, work study programs, and financial aid packages-are excluded from annual income except for students receiving Section 8 assistance. This is true whether the assistance is paid to the student or directly to the educational institution. For students receiving Section 8 assistance, owner/agents must count such financial aide unless the student is living with his/her parent receiving Section 8 assistance or if the student is a person over the age of 23 with a dependent child.)
- (7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire;
- (8)
 - a) Amounts received under training programs funded by HUD;
 - b) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set-aside for use under a Plan to Attain Self-Sufficiency (PASS);
 - c) Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and which are made solely to allow participation in a specific program;
 - d) Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development.
Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time; or
 - e) Incremental earnings and benefits resulting to any family member from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program;
- (9) Temporary, nonrecurring or sporadic income (including gifts);
- (10) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;
- (11) Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household and spouse); *(Note from RBD: please note HH 4350.3 R1, C4, Paragraph 5-6-A-3-d indicates that this exclusion does not apply to the co-head; "For full-time students, who are 18 years of age or older *and* are dependents, a small amount of their earned income will be counted. Count only earned income up to a maximum of \$480 per year for full-time students, age 18 or older, who are not the head of the family; spouse or co-head...")*
- (12) Adoption assistance payments in excess of \$480 per adopted child;
- (13) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts;
- (14) 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;
- (15) 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 cost of services and equipment needed to keep the developmentally disabled family member at home; or
- (16) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any

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program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the **Federal Register** and distributed to PHAs and housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.

*(Note from RBD - The following updated list of federally mandated exclusions supersedes that notice published in the **Federal Register** on April 20, 2001, the notice published on July 17, 2012 in the **Federal Register** which may be found here: www.gpo.gov/fdsys/pkg/FR-2012-07-24/pdf/2012-18056.pdf and a December 14, 2012 Notice (Vol 77 #241). A copy of the new notice may be found here: www.gpo.gov/fdsys/pkg/FR-2014-05-20/pdf/2014-11688.pdf. The May 2014 Federal Register Notice is found at <https://www.federalregister.gov/articles/2014/05/20/2014-11688/federally-mandated-exclusions-from-income-updated-listing> .*

The following list of program benefits is the comprehensive list of benefits that currently qualify for the income exclusion in either any federal program or in specific federal programs.

Exclusions (viii) and (xxi) have provisions that apply only to specific HUD programs.

- (i) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b));
- (ii) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(f)(1), 5058); (this includes VISTA, RSVP, Foster Grandparents, youthful offender incarceration alternatives, senior companions)
- (iii) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
- (iv) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
- (v) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));
- (vi) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540), section 6;
- (vii) The first \$2000 of per capita shares received from judgment funds awarded by the National Indian Gaming Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, and the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408). This exclusion does not include proceeds of gaming operations regulated by the Commission;
- (viii) Amounts of scholarships funded under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070,1728), including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu).
For section 8 programs only (42 U.S.C. 1437f), any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall not be considered income to that individual if the individual is over the age of 23 (by at least one day) with dependent children (Pub. L. 109-115, section 327) (as amended);
- (ix) Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056g); These include Green Thumb, Senior Aides and Older American Community Service Employment Program (CSEP)
- (x) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (Pub. L. 101-201) or any other fund established pursuant to the settlement in the In Re Agent Orange Liability Litigation, M.D.L. No. 381 (E.D.N.Y.);
- (xi) Payments received under the Maine Indian Claims Settlement Act of 1980 (Public Law 96-420, 25 U.S.C.);

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- (xii) The value of any child care 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 Development Block Grant Act of 1990 (42 U.S.C. 9858q);
- (xiii) Earned income tax credit (EITC) refund payments received on or after January 1, 1991, for programs administered under the United States Housing Act of 1937, title V of the Housing Act of 1949, section 101 of the Housing and Urban Development Act of 1965, and sections 221(d)(3), 235, and 236 of the National Housing Act (26 U.S.C. 32(l));
- (xiv) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);
- (xv) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
- (xvi) Any allowance paid under the provisions of 38 U.S.C. 1833(c) to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802-05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811-16), and children of certain Korean service veterans born with spina bifida (38 U.S.C. 1821);
- (xvii) 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 (42 U.S.C. 10602);
- (xviii) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931(a)(2));
- (xix) Any amount received under the Richard B. Russel School Lunch Act (42 U.S.C. 1760 (e) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC);
- (xx) Payments, funds or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));
- (xxi) Payments from any deferred U.S. Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts (42 U.S.C. § 1437a(b)(4)); *(Note from RBD – the Federal Register notice indicates that this exclusion applies only to Public Housing and Section 8 Housing. See HUD Notice 09-03. If you manage under a different contract type, you should consider contacting your HUD office for additional guidance. The note in the Federal Register reads as follows: “This exclusion is applicable only to the Section 8 and Public Housing programs. The effective date of this provision was July 30, 2008).*
- (xxii) Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111-269) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101) and administered by the Office of Native American Programs;
- (xxiii) A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled Elouise Cobell et al. v. Ken Salazar et al., 816 F.Supp.2d 10 (Oct. 5, 2011 D.D.C.), for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291);
- (xxiv) Any amounts in an “individual development account” as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107-110, 42 U.S.C. 604(h)(4));
- (xxv) Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013-30 “Exclusion from Income of Payments under Recent Tribal Trust Settlements” (25 U.S.C. 117b(a)); and
- (xxvi) Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93-288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)).

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In addition, there are exclusions indicated in the Handbook and in HUD Notices to consider as well. See HH 4350.3 Revision 1, Change 4, Paragraph 5-6. They include:

- (1) If the tenant is receiving long-term care insurance payments, any payments in excess of \$180 per day must be counted toward the gross annual income.

(NOTE: Payment of long-term care insurance premiums may be included in the medical expense deduction if they meet certain criteria cited in HH 4350.3, Revision 1, Change 4 paragraph 5-10 D.8.k.)

- (2) Federal Government/Uniformed Services pension funds paid to a former spouse. Federal Government/Uniformed Services pension funds paid directly to an applicant's/tenant's former spouse pursuant to the terms of a court decree of divorce, annulment, or legal separation are not counted as annual income. The state court has, in the settlement of the parties' marital assets, determined the extent to which each party shares in the ownership of the pension.

That portion of the pension that is ordered by the court (and authorized by the Office of Personnel Management (OPM), to be paid to the applicant's/tenant's former spouse is no longer an asset of the applicant/tenant and therefore is not counted as income. However, any pension funds authorized by OPM, pursuant to a court order, to be paid to the former spouse of a Federal government employee is counted as income for a tenant/applicant receiving such funds.

The OPM is responsible for handling court orders (any judgments or property settlements issued by or approved by any court of any state, the District of Columbia, the Commonwealth of Puerto Rico, Guam, The Northern Mariana Islands, or the Virgin Islands in connection with the divorce, annulment of marriage, or legal separation of a Federal government employee or retiree) affecting current and retired Federal government employees. See 5 C.F.R. § 838.103. OPM must comply with court orders, decrees, or court-approved property settlement agreements in connection with divorces, annulments of marriage, or legal separations of employees that award a portion of the former Federal government employee's retirement benefits. Id. at § 838.101(a)(1).

State courts ordering a judgment or property settlement in connection with divorce, annulment of marriage, or legal separation have the responsibility of issuing clear, specific, and express instructions to OPM with regards to providing benefits to former spouses. Id. at § 838.122. In response to instructions from state courts, OPM will authorize payments to the former spouses. Id. at § 838.121. Once the payments have been authorized by OPM, the reduced pension amount paid to the retired Federal employee (the tenant/applicant) will be reflected in the tenant's/applicant's statement from OPM. Former spouses of Federal government employees receiving court ordered pension benefits are provided a Form-1099 reflecting pension benefits received from the retired Federal government employee. In verifying the income of tenants/applicants, owners should require that tenants/applicants provide any copies of statements from OPM verifying pension benefits (including any reductions pursuant to a court order, decree or court-approved property settlement agreement), and any evidence of survivor benefits, pensions or annuities received from retired Federal government employees including, but not limited to, a Form-1099. (See Paragraph 5-7.G.5 for more information on the treatment of income from Federal government pensions.)

- (3) Other State, local government, social security or private pensions paid to a former spouse. Other state, local government, social security or private pension funds paid directly to an applicant's/tenant's former spouse pursuant to the terms of a court decree of divorce, annulment, or legal separation are also not counted as annual income and should be handled in the same manner as above. The decree and copies of statements should be obtained in order to verify the net amount of the pension that should be applied in order to determine eligibility and calculate rent.

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- (4) The value of food provided through:
- The Meals On Wheels program, food stamps now known as SNAP (Supplemental Nutrition Assistance Program), or other programs that provide food for the needy;
 - Groceries provided by persons not living in the household; and
 - Amounts received under the school lunch act and the child nutrition act of 1966, including reduced lunches and food under the special supplemental food program for women, infants and children (WIC).

HUD HSG Notice 09-16 [Treatment of ABLÉ Accounts in HUD-Assisted Programs](#) provides the following income exclusion.

- 5) Pursuant to Section 24 CFR §5.609(c)(9), owners and management agents of housing occupied by tenants who receive Section 8 benefits are to exclude from the calculation of annual income any temporary income payments received by those tenants from the U.S. Census Bureau. Temporary is defined as employment lasting no longer than 180 days and not culminating in permanent employment. Employer verification of both the employment dates and income amount must be maintained in the tenant's file.

ABLE ACCOUNTS

In April, 2019 HUD released [Housing Notice H-2019-06 Treatment of ABLÉ Accounts in HUD-Assisted Programs](#). This Notice provides guidance regarding the federally mandated exclusion of ABLÉ accounts from the calculation of income and assets, as required under the Achieving a Better Life Experience Act of 2014 (ABLE Act). Per the mandate of the ABLÉ Act, for the purpose of determining eligibility and continued occupancy, HUD will disregard amounts in the designated beneficiary's/individual's ABLÉ account.

Owner/agents of HUD properties will exclude amounts in the individual's ABLÉ account pursuant to 24 CFR 5.609(c)(17).

The entire value of the individual's ABLÉ account will be excluded from the household's assets. This means actual or imputed interest on the ABLÉ account balance will not be counted as income. Distributions to the designated beneficiary from the ABLÉ account are not counted as income.

If the designated beneficiary deposits any amount previously included as income into his/her ABLÉ account, that deposited amount must not be included in the household's asset calculation or counted as income again when the beneficiary receives a distribution from the account.

For example, if the resident is the designated beneficiary and the resident is employed, employment income is counted as part of the income calculation. If the resident contributes part of the employment income to an ABLÉ account, the contributions is not considered an asset disposed of for less than fair market value.

The ABLÉ account is not included on the 50059 as an asset.

If the resident receives a distribution from the ABLÉ account, that distribution is not counted as income. Pre-tax employer contributions to an ABLÉ account (that are not deducted from wages) are not counted as income. If someone other than the designated beneficiary contributes directly to the ABLÉ account, that contribution will not be counted as income to the designated beneficiary.

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MINNESOTA SUPPLEMENTARY ASSISTANCE

On 11/30/2020 HUD released a memo clarifying how to handle Minnesota Supplementary Assistance (MSA) program codified at Minnesota Statutes 256D.44, Standards of Assistance, Subdivision 5, paragraph (b).

The Special Diet portion (only) of the MSA Assistance Payments are Excluded from Annual Income.

Background: The MSA program provides cash benefits to qualified adults who receive Supplemental Security Income (SSI) or are eligible to receive SSI. The state directs the county to provide “a monthly allowance for medically prescribed diets if the cost of [such] dietary needs cannot be met through some other maintenance benefit” and if “the need for special diets or dietary items [is] prescribed by a licensed physician, advanced practice registered nurse, or physician assistant.” Further information is available at <https://www.revisor.mn.gov/statutes/cite/256D.44>.

The Office of Asset Management and Project Oversight (OAMPO) has determined that payments made by the MSA program meet the income exclusion found in regulation at 24 CFR §5.609(c)(4), because the state of Minnesota has made MSA benefits available specifically for the cost of state-determined medical expenses. The regulation specifies that annual income does not include “amounts received by the family that are specifically for...the cost of medical expenses for any family member.”

This interpretation applies to the MSA program only, superseding previous HUD guidance specific to the program. Other similar state-run programs must be reviewed by HUD on a case-by-case basis to determine whether benefits would likewise be excluded from income.

With issuance of this memorandum, owners are instructed to exclude the MSA benefit from income and to correct previous income calculations where the benefit was included in income. Any subsidy that was underpaid to a tenant as a result of a previous interpretation must be credited to the affected tenant.

THE CARES ACT

[The Economic Impact Payment](#) (which is technically an advance payment of a tax credit that may be claimed on a 2020 tax return) provided by the CARES Act is not to be included in calculations of tenant income.

THE 2021 CONSOLIDATED APPROPRIATIONS ACT (2021 APPROPRIATIONS) AND THE AMERICAN RESCUE PLAN OF 2021 (ARP)

The 2021 Consolidated Appropriations Act (2021 Appropriations) and the American Rescue Plan of 2021 (ARP) amended three provisions to strengthen and extend unemployment benefits in the CARES Act and the ARP provides a monthly payment from the enhanced child tax credit that will begin being distributed to families in July 2021. HUD has determined that the \$300/week unemployment benefit and the upcoming monthly child tax credit payment are to be **excluded** from the annual income calculation. You may use this email as authorization and documentation of the exclusion. Please also be advised that if a tenant’s income was not calculated in accordance with the guidance below, owners/agents must correct the form-HUD 50059.

[Section 7527A: Advance Payment of Child Tax Credit](#) in the ARP provides a monthly payment up to \$300/week from July 2021 through December 2021. **Owners/agents shall exclude the child tax credit** on the basis that it is excludable income under 26 USC 6409.

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This announcement is important, especially for our low-income families who have been hit the hardest by the pandemic. In an effort to promote housing stability, owners/agents can remind residents that the \$300/week unemployment benefit and child tax credit are not included in the annual calculation of income and this could be used as a resource to help with unpaid rent.

COMMUNITY SOLAR CREDITS

The [MF Community Solar Credits Memo](#) reflects how HUD has approached requests from state and local governments about how to treat community solar credits and may be helpful to industry stakeholders.

If a community solar credit on a household's electricity bill is based on the amount of electricity consumed each month, HUD has determined that the credit should be treated as a discount or coupon rather than a cash payment. The credit will not be counted as income when determining the resident's assistance payment.

If the credits are found to be third-party payments, there may be instances when the credits are not discounts and must be treated as income. For instance, a recurring monthly utility payment made on behalf of the family through the community solar benefit program is not considered a discount but is considered annual income to the family.

We (RBD) interpret this to mean if the community solar credit is not tied to consumption and the credit amount is the same each month regardless of consumption, then the amount would be counted as income when determining the resident's assistance payment.