

HOTMA Outline

The following constitutes a chart to assist managers of properties subject to USDA's Section 515 program calculate tenant income and assets pursuant to the Housing Opportunity Through Modernization Act of 2016 ("HOTMA"). In the event of a conflict, the rules set forth in: (i) Code of Federal Regulations (24 C.F.R. § 5.601 *et seq.*) and (ii) Chapter 6 of the HB-2-3560 should be followed. The chart set forth below is intended as merely a tool to assist a manager find the appropriate means to calculate tenant income/ assets and apply the appropriate deduction—it is not intended as a comprehensive treatise on HOTMA or Section 515 properties.

When calculating income and family assets under HOTMA you should repeatedly reference the following documents:

- 1) **Chapter 6 of the HB-2-3560** including the following attachments thereto:
- 2) **Attachment 6-A** (Annual Income Exclusions);
- 3) **Attachment 6-B** (Zero Income Verification Checklist);
- 4) **Attachment 6-C** (Allowable Deductions);
- 5) **Attachment 6-D**; (Net Family Assets—Exclusions) and
- 6) **Attachment 6-I** (Eligibility, Income, and Deduction Checklist)

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HOTMA

I. HOTMA CHANGES TO HOUSEHOLD COMPOSITION:

	Type	New Rule
1.	Unborn Children	Unborn children are included as household members for determining unit size & household size for income limit purposes. <ul style="list-style-type: none"> No dependent deduction for an unborn child
2.	Approved Adopted Children Not Yet In Unit	For a household that has been approved to adopt a child and the child has not moved into the unit: the approved adopted child are included as household members for determining unit size & household size for income limit purposes <ul style="list-style-type: none"> No dependent deduction for an approved adopted child who is not yet residing in the unit
3.	Foster Children	Foster children are included as household members to determine appropriate unit size Foster children are <u>not included</u> as household members for purposes of determining <u>income</u> , or <u>deductions from income</u> (disability/medical expenses) or to determine household size for income limit eligibility. <ul style="list-style-type: none"> <u>Exception for Child-Care Expenses:</u> Anticipated expenses for childcare for foster children under 13 may be deducted from annual income if all other criteria for the childcare deduction are met. <u>Temporary Removal of Member to Foster Care:</u> If a household member is <u>temporarily</u> placed in foster care outside the unit (confirmed by the state child welfare agency) the removed household member is still counted as a household member in the unit from which they are removed.
4.	Foster Adult	18 years or older and meets definition of foster adult under state law. <ul style="list-style-type: none"> Included as household members to determine unit size Excluded as members for purposes of determining income, income deductions (disability/medical expense) or to determine household size for income limit eligibility.
5.	Dependent	A dependent is a family member (excluding foster children and foster adults) other than the family head or spouse who is under 18 or is a person w/ a disability, or is a full-time student.

	Type	New Rule
6.	Student	<p>Students may be eligible tenants when ALL of the following are met:</p> <ul style="list-style-type: none"> (1) Student is of legal age; (2) The person seeking occupancy: <ul style="list-style-type: none"> a. Must meet the US Dept. of Educ.'s definition of an independent or must have established a household separate from the person's parents for at least 1 year prior to an application for occupancy, and is no longer claimed as a dependent by the person's parents pursuant to IRS regulations and evidenced (most recently filed tax return) is provided to this effect; OR b. Is claimed as a dependent by the person's parents and the student is eligible b/c the entire household is income eligible. (3) If eligible under Paragraph 2(a) above, applicant must sign a written statement indicating whether the person's parents, guardians, or other provide any financial assistance, and this financial assistance is considered as part of current annual income and is verified in writing by the borrower.
7.	Social Security Numbers	<p>Family members 6 years and older must provide a social security number.</p> <ul style="list-style-type: none"> • MINC Tip: If an eligible member does not yet have a SSN, submit the tenant data to MINC using all zeros. <p>Do NOT lease a unit to a tenant if anyone over 6 does not have a valid SSN.</p>
8.	New Form RD 3560-8	<p>Complete ALL tenant certifications effective July 1, 2025 and later using the new Form Rd 3560-8 (Rev. 04-25).</p> <ul style="list-style-type: none"> • Do NOT submit tenant certifications using the old form.

II. PROJECT INCOME FOR A 12-MONTH PERIOD

Managers may use current income and family circumstances to estimate the household's income over the next twelve months, unless there is verifiable evidence of a likely change in circumstances. Historical information may be used to estimate income that is anticipated to be received for 12 months. June 2025 changes to Chapter 6 of the HB3560 provide two different methods to calculate seasonal income:

Calculating Seasonal Income (From HB3560 page 6-9)	
<p>Historically, a family member with no current income has seasonable income during the summer months and earns on average \$4,000 during that time. Confirm w/ the applicant that the same seasonal pattern is expected and use historical data to project income for the coming 12 months, which in this case would be \$4,000 projected annual income.</p> <p>Gross Tenant Contribution (GTC):</p> <p>\$4,000/ 12 months x 30% = \$100/month for 12 months</p>	<p>Assume a family member currently has seasonal income of \$1,000 per month and is expected to last 4 months. Annualizing this income would be \$1,000 x 12 months = \$12,000.</p> <p>Once the seasonal income ends, it is the tenant's responsibility to notify management and request a recertification of income.</p> <p>Note: this method would require at least 2 recertifications each year.</p> <p>Gross Tenant Contribution (GTC):</p> <p>\$12,000/ 12 months x 30% = \$300 month during the months of seasonal income.</p>

III. ANNUAL INCOME INCLUSIONS

Rule: *All income is included that is received from all sources by each member of the household 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, unless such income is specifically excluded below. Attachment 6-A to HB-2-3560 sets forth a list of income sources that are excluded from annual income.*

<i>With respect to the family, annual income includes the following, unless specifically excluded as described below:</i>		
1. All Amounts Received	<p><u>All amounts received</u> from <u>all sources</u> by <u>each member</u> of the family who is 18 or older (or is the head of household or spouse of the head of household).</p> <ul style="list-style-type: none"> Note: The amount must actually be received to count as income. Therefore, unpaid mandatory child support does not constitute income. 	§ 5.609(a)(1)
2. Unearned Income of Dependents	<u>Unearned</u> income by or on behalf of each dependent who is under 18.	§ 5.609(a)(1)
3. Imputed Income on Assets worth more than \$51,600	<p>When:</p> <p>(i) the value of net family assets is more than \$51,600 (as adjusted by HUD); AND</p> <p>(ii) the <u>actual returns</u> from a given asset CANNOT be calculated,</p> <p>then annual income will include the imputed returns on the asset based on the current passbook savings rate (as determined by HUD)</p>	§ 5.609(a)(2)

<i>Income by Age of Family Member</i>	
<u>Family Member 18 or Over (or Household Head or Spouse of Household Head)</u>	<u>Dependent Under 18</u>
All income from all sources will be included (unless an exclusion applies)	Unearned income only included
Imputed Income on Assets worth more than \$51,600 [adjusted by HUD]	Imputed Income on Assets worth more than \$51,600 [This would be a rare situation that a minor has assets in excess of \$51,600 but theoretically possible]

IV. EXCLUSIONS FROM INCOME

<i>The following amounts are excluded from income:</i>		
1. Net Assets are Less Than \$51,600 AND No Actual Income Can Be Determined From Those Assets	<p>Any imputed return on an asset when:</p> <p>(1) net family assets total \$51,600 [as adjusted by HUD] or less; <u>AND</u></p> <p>(2) no actual income from the net family assets can be determined.</p> <p><u>Note:</u> If (i) net family assets are less than or equal to \$51,600 AND (ii) actual income from the net family asset can be determined, then the actual income is included in the family's income.</p>	§ 5.609(b)(1).
2. Distributions from Irrevocable Trust	<p>1. Distributions of the trust's principal (corpus); and</p> <p>2. Income distributions to pay the health costs and medical care expenses for a <u>minor</u>.</p>	§ 5.609(b)(2)(i)
3. Revocable Trust Outside the Control of the Family or Household	<p>1. Distributions of the trust's principal (corpus); and</p> <p>2. Income distributions to pay the health costs and medical care expenses for a minor.</p>	§ 5.609(b)(2)(i)
4. Revocable Trust under Control of Family or Household	<p>Any distributions from the trust shall not be considered income.</p> <ul style="list-style-type: none"> • <u>Exception:</u> any actual income earned by the trust (regardless of whether it is actually distributed to the tenant) shall be considered income to the tenant at the time it is received by the trust. 	§ 5.609(b)(2)(ii)
5. Earned Income of Minor Child	Earned income of children under the age of 18 (W-2 Sages, p-6-8 of Chapter 6 of HB-2-3560)	§ 5.609(b)(3)

<i>The following amounts are excluded from income:</i>		
6. Foster Children	Payments received for the care of foster children/adults (or State or Tribal kinship or guardianship care payments)	§ 5.609(b)(4)
7. Insurance Payments	Insurance payments and settlements for personal or property losses (such as payments through health insurance, motor vehicle insurance, and worker's compensation)	§ 5.609(b)(5)
8. Health Reimbursement	Amounts received by the family that are specifically for, or in reimbursement of, the cost of health and medical care expense for any family member	§ 5.609(b)(6)
9. Certain Lawsuit Settlements	Any amounts recovered in any civil action [lawsuit] or settlement based on malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member <u>becoming disabled</u> .	§ 5.609(b)(7)
10. Income of Foster Family Member or Live-In Aid	Income of a: (i) live-in aid; (ii) foster child; or (iii) foster adult	§ 5.609(b)(8)
11. Education Related Income	See chart titled "Student Financial Assistance Under HOTMA". Note that Section 8 tenants receiving financial aid will be treated differently from Non-Section 8 tenants receiving financial aid.	§ 5.609(b)(9)
12. Income from Coverdell Education Savings Accounts	Income and distributions from Coverdell Savings Accounts or any 529 tuition plan and income earned by government contributions to and distributions from a baby bond account created by a federal, state, or local government	§ 5.609(b)(10)
13. Hostile Fire Pay	Hostile Fire Pay (not to be confused with Hazard Pay)	§ 5.609(b)(11)
14.	Amounts received by a person with a disability that are disregarded for a limited time for purposes of SSI eligibility and benefits b/c they are set aside for use under a Plan to Attain Self-Sufficiency (PASS) See Attachment 6-A No. 14 (p. 4)	

<i>The following amounts are excluded from income:</i>		
15.	Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program.	
16. Resident Service Stipend (Less Than \$200 per month)	<p>Amounts received under a residence service stipend not to exceed \$200 per month.</p> <ul style="list-style-type: none"> • A resident service stipend is a modest amount received by a resident for performing a service for the owner, on a part time basis, that enhances the quality of life in the development. 	
17. Certain Training Program Earnings	<p>Incremental earnings and benefits resulting to any family member from participation in training programs funded by HUD or in qualifying Federal, State, Tribal, or local employment training programs and training of a family member as resident management staff.</p> <ul style="list-style-type: none"> • 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 unless those amounts are excluded under paragraph (b)(9)(i). 	
18. Nazi Persecution Reparation Payments	Reparation payments for Nazi era persecution.	§ 5.609(b)(13)
19. Dependent Earned Income	Earned income of dependent full-time students in excess of the amount of the deduction for a dependent.	§ 5.609(b)(14)
20. Adoption Assistance Payments	Adoption assistance payments for a child in excess of the amounts of the deduction for a dependent.	§ 5.609(b)(15)
21. Deferred SSI Payments	Deferred SSI payments received in a lump sum (See Attachment 6-A No. 30 p. 6)	§ 5.609(b)(16)
22. Certain Veteran Aid	Payments related to aid and attendance under 38 U.S.C. § 1521 to veterans in need of regular aid and attendance.	§ 5.609(b)(17)

<i>The following amounts are excluded from income:</i>		
23. Property Tax Rebates	Rebates for property taxes paid on the dwelling unit	§ 5.609(b)(18)
24. Certain Medicaid Payments	Payments made by or authorized by a State Medicaid agency to enable a family member w/ a disability to reside in the unit (and not be institutionalized).	§ 5.609(b)(19)
25. Certain Loan Proceeds	Loan proceeds under a loan agreement.	§ 5.609(b)(20)
26. Tribal Member Payments	Payments received by Tribal members from claims relating to mismanagement of assets held in trust by U.S. if such payments are also excluded from gross income under I.R.C.	§ 5.609(b)(21)
27. Other HUD Payments Excluded by Statute	Amounts federal statute requires HUD to exclude from consideration as income to determine eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in Paragraph (b) of this section apply.	§ 5.609(b)(22)
28. Replacement Housing Gap Payments	Replacement housing gap payments made in accordance w/ 49 CFR Part 24 that offset increased out of pocket costs of displaced persons that move from one federally subsidized housing unit to another.	§ 5.609(b)(23)
29. Nonrecurring Income	<p>Nonrecurring income (income that will not be repeated) based on information provided by the family. Includes the following:</p> <ul style="list-style-type: none"> • Payments from US Census Bureau for employment lasting less than 180 days and not culminating in permanent employment; • Economic stimulus payments; • State tax refunds & State refundable tax credits; • Federal refundable tax credits; federal tax refunds; • Holiday/birthday gifts, wedding gifts, baby showers or significant life events; • Non-monetary (in-kind donations—food, clothing, toiletries) <u>from a food bank or similar organization;</u> <ul style="list-style-type: none"> ○ BUT: if given from a person (not a food bank or similar organization) --> such in kind donations are considered income • Lump sum additions to net family assets (such as lottery winnings). <p>The following does NOT constitute nonrecurring income (and thus are included as income):</p>	§ 5.609(b)(24)

<i>The following amounts are excluded from income:</i>		
	<ul style="list-style-type: none"> • Seasonal work; • Independent contractor work; • Day laborer work 	
30. Civil Rights Settlements	Civil rights settlements or judgments	§ 5.609(b)(25)
31. Retirement Plans (Qualified IRS Plans)	<p>Income from any account under a retirement plan (IRA, employer retirement plans, retirement plans of self-employed, 401K);</p> <ul style="list-style-type: none"> • Exception: Any distribution of periodic payment from such account shall be income at the time received by the family <p>See Attachment 6-A No. 18. Question as to how this exception is applied logistically. For example, is only income retained in the IRA exempt or is income distributed also exempt?</p>	§ 5.609(b)(26)
32. Family Self Sufficiency Account	Income earned on amounts placed in a family's Family Self Sufficiency Account	§ 5.609(b)(27)
33. Self-Employment Income (Gross Income)	<p>Gross income received through self-employment from a business. (Gross income is all income amounts received into the business, prior to the deduction of any business expenses).</p> <p>To determine the amount of business/self-employment income included in the family's annual income, determine the net income of the business by taking the gross income amount minus business expenses. The net income from the business will be considered income to the family.</p> <p>Gross Income -<u>Business Expenses</u> Net Income [Included as Family Income]</p> <ul style="list-style-type: none"> • Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions to determine net income. • An allowance for straight line asset depreciation may be deducted per IRS Regulations; • Withdrawal of cash or assets from a business will be included as income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family. 	§ 5.609(b)(28)

V. EVALUATING ASSETS

Assets may generate income that must be included in the calculation of annual income. Therefore, you must:

- (1) Calculate the family's Net Family Assets (defined below); and then
- (2) Determine whether those assets produce income (actual or imputed) to add to a family's annual income. If imputed → multiply by passbook savings rate (currently 0.4%).

Step 1: What type of Asset is it and is it Included or Excluded as an Asset?

All assets are categorized as either: 1) **Real Property**¹ or 2) **Personal Property**. Personal Property is further categorized as either a) **necessary personal property** or b) **non-necessary personal property**. *Attachment 6-D* identifies certain asset types that are excluded from net family assets. All assets of all family members are considered.

Real Property
Excluded as an asset when the family does not have legal authority to sell it.
Example: 1 party cannot unilaterally sell the RP b/c it is tied up in litigation; inherited property in dispute

Necessary Personal Property (Excluded from Net Family Assets) Source: Table F-1 HUD Notice H 2023-10	Non-Necessary Personal Property (Excluded if Total Value is <\$51,600) Source: Table F-1 HUD Notice H 2023-10
HUD Examples: <ul style="list-style-type: none"> • Vehicles • Furniture, kitchenware, linens • Common electronics (including video games/TVs) • Non-luxury personal items (toys, books) • Wedding ring • Religious jewelry • Medical/health care supplies • Musical instruments • Computer, i-phone, i-pad • Professional tools/books • Educational materials/books • Exercise equipment <p>Other items essential to the family for maintenance, use, and occupancy of the premises as a home.</p> <p>Excludes: bank accounts, financial investments, or luxury items.</p>	HUD Examples: <ul style="list-style-type: none"> • Recreational car/vehicle not needed for day-to-day transportation (campers, motorhomes, trailers) • Bank Accounts/ financial investments • Boats • Expensive jewelry of no religious significance • Collectibles • Equipment/machinery not used to generate income for a business • Antiques/ gems, artwork

¹ USDA (unlike Section 8) does not have an asset limitation for real property for household eligibility.

Net Family Assets		
Net Family Assets Defined	<p>The net cash value of all assets owned by the family, after deducting reasonable costs that would be incurred in disposing real property, savings, stocks, bonds, and other forms of capital investment. Stated as a formula:</p> <p>Asset's Market Value <u>-Reasonable Expenses to Convert Asset to Cash</u> Net Family Asset [also called net cash value]</p>	§ 5.603
Assets transferred for less than FMV w/i 2 years	<p>In determining net family assets, include the value of any business or family assets disposed of by an applicant or tenant for <u>less than fair market value</u> (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the <u>two years preceding</u> the date of application for the program or reexamination, as applicable, in excess of the consideration received therefore.</p> <p><u>Divorce/Separation:</u> In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives consideration not measurable in dollar terms.</p> <p><u>Negative Equity:</u> Negative equity in real property or other investments does not prohibit the owner from selling the property or other investments, so negative equity alone would not justify excluding the property or other investment from family assets.</p>	
<i>Exclusions from Net Family Assets</i> <i>(Excluded by 24 CFR § 5.603(b)(3)-(b)(4))</i>		
1. Nec. Personal Property	The value of necessary items of personal property (items essential to the family for the maintenance, use, and occupancy of the premises as a home or necessary for employment, education, health/wellness).	

	<p>(See chart below for examples of necessary personal property)</p> <p>Note: bank accounts, financial investments, or luxury items will never constitute necessary personal property.</p>	
2. Non-Nec. Personal Prop < \$51,600	<p>The combined value of all <i>non-necessary personal property</i> if the combined total value <i>does not exceed \$51,600</i> [adjusted per Consumer Price Index];</p> <p>(See chart below for examples of non-necessary personal property)</p>	
3. IRS Recog. Retirement Plans	<p>The value of any account under a retirement plan recognized as such by the IRS, including IRAs, employer retirement plans, and retirement plans for self-employed individuals;</p> <ul style="list-style-type: none"> • IRA • Roth IRA • 401(k) • SIMPLE 401(k) • 403(b) plans; • SEP plans; • SARSEP Plans; • Payroll Deduction IRAs • Profit-Sharing Plans; • Defined Benefit Plans; • Money purchase plans • ESOP • Governmental Plans; • 457 plans • Multiple employer plans 	
4. Real Property (no control)	The value of real property that the family does not have the effective legal authority to sell in the jurisdiction in which the property is located;	
5. Civil Suit Recovery	Any amount recovered in a civil action or settlement based on a claim of malpractice, negligence, or other breach of duty owed to a family member arising out of law, that resulted in a family member being a person w/ a disability;	
6.	The value of any Coverdell education savings account under IRC § 530, the value of any qualified tuition program under IRC §529, the	

Coverdell Savings Acct	value of any Achieving a Better Life Experience (ABLE) account authorized under IRC § 529A, and the value of any “baby bond” account created, authorized, or funded by Federal, State, or local government.	
7. Indian Land Trust	Interests in Indian trust land;	
8. Manufactured Home Equity	Equity in a manufactured home where the family receives assistance under 24 CFR part 982;	
9.	Equity in property under the Homeownership Option for which a family receives assistance under 24 CFR Part 982;	
10. FSSA	Family Self-Sufficiency Accounts; and	
11. Federal Tax Refunds	Federal tax refunds or refundable tax credits for a period of 12 months after receipt by the family.	
12. Certain Trusts	Where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the trust fund is not a family asset and the value of the trust is not included in the calculation of net family assets, so long as the fund continues to be held in a trust that is not revocable by, or under the control of, any member of the family or household. [See Charts on following pages]	

Step 2: Is Actual or Imputed Income to be Added?

Rule:

- *Actual income from assets is always included in a family’s annual income regardless of total asset level or whether the asset is itself included or excluded from net family assets, unless that income is specifically excluded by 24 CFR § 5.609(b).*
- *Imputed income is only calculated when the following are met:*
 - (1) Value of Net Family Assets exceeds the annual HUD published inflationary adjusted value;*
 - (2) Specific asset is included in net family assets; and*
 - (3) Actual asset income cannot be calculated (i.e., is unknown) for this specific asset.*

Income from Assets Determination Exhibit 6-3 to HB-2-3560 (page 6-23)			
Net Family Assets Value	Actual Income	Imputed Income	Asset Income Included in Annual Income Calculation
Total Net Family Assets ≤ HUD Published Inflationary Adjusted Value	Included	Not Applicable	Include Actual Income
Total Net Family Assets > HUD Published Inflationary Adjusted Value & Actual Income Can Be Determined for ALL Assets	Include	Not Applicable	Include Actual Income
Total Net Family Assets > HUD Published Inflationary Adjusted Value & Actual Income Can Be Determined for SOME of the Assets	Determine amount of actual income from those assets where actual income can be determined	Calculate amount of imputed income for all remaining assets (those where actual income cannot be determined)	Include Actual Income + Imputed Income
Total Net Family Assets > HUD Published Inflationary Adjusted Value & Actual Income Cannot Be Determined From Any of the Assets	Not Applicable	Calculate amount of imputed income for all assets	Include Imputed Income

Revocable Trusts (Grantor can amend the trust at any time prior to his death)							
	Who is the Grantor (trust creator)?	Who is the Trustee?	Who is the Beneficiary?	Value of Trust Included in Net Family Assets?	Income Earned by Trust Included?	Distribution of Principal Included?	Distribution of Income Included?
1	Family Member	Family Member	Family Member	Yes	Yes	No	No
2	Family Member	Family Member	Non-Family Member	Yes	Yes	No	No
3	Family Member	Non-Family Member	Non-Family Member	Yes	Yes	No	No
4	Family Member	Non-Family Member	Family Member	Yes	Yes	No	No
5	Non-Family Member	Family Member	Family Member	Yes	Yes	No	No
6	Non-Family Member	Family Member	Non-Family Member	Yes	Yes	No	No
7	Non-Family Member	Non-Family Member	Family Member	No	No	No	Yes (unless distribution is used to pay for health/medical expenses of minor)

Irrevocable Trusts (Grantor cannot amend the trust)							
	Who is the Grantor (trust creator)?	Who is the Trustee?	Who is the Beneficiary ?	Value of Trust Included in Net Family Assets?	Income Earned by Trust Included?	Distribution of Principal Included?	Distribution of Income Included?
1	Family Member	Family Member	Family Member	Yes	Yes	No	No
2	Family Member	Family Member	Non-Family Member	Yes	Yes	No	No
3	Family Member	Non-Family Member	Non-Family Member	Yes	Yes	No	No
4	Family Member	Non-Family Member	Family Member	No	No	No, if not distributed	Yes (unless distribution is used to pay for health/medical expenses of minor)
5	Non-Family Member	Family Member	Family Member	Probably ²	Depends ³	Depends	Depends
6	Non-Family Member	Family Member	Non-Family Member	Probably	Depends	Depends	Depends
7	Non-Family Member	Non-Family Member	Family Member	No	No, if not distributed.	No	Yes (unless distribution is used to pay for health/medical expenses of minor)

² It is unclear whether an irrevocable trust whose grantor is a non-family member but whose trustee is a family-member-trustee [boxes 5 and 6 above] constitutes a Net Family Asset. Sections 5.609(b)(2) uses the phrase “For an irrevocable trust or a revocable trust outside the control of the family . . .” It is unclear whether the phrase “outside the control of the family” modifies both irrevocable and revocable trust or whether it just modifies the term “revocable trust”. Additional guidance from USDA should be sought in these situations.

³ If the trusts referenced in Boxes 4 and 5 are included in Net Family Assets, then whether distributed income/principal is included or excluded will follow the pattern set forth in Box 1. On the other hand, if the trust is excluded from Net Family Assets, then whether distributed income/principal is included or excluded will follow the pattern set forth in Box 7.

VI. ADJUSTED INCOME

Rule: After calculating annual income, subtract any of the following five deductions (if any) that may apply to the household:

- (1) Dependent Deduction;
- (2) Elderly/Disabled Household Deduction;
- (3) Childcare Expense Deduction;
- (4) Health & Medical Care Expense Deduction; and
- (5) Disability Expense Deduction

Mandatory Deductions			
1.	\$480 Dependent Deduction	<p>\$480 for <u>each</u> dependent</p> <ul style="list-style-type: none"> • If 3 dependents, --> total deduction of \$1,440 (\$480 x 3) = \$1,440 • \$480 may be adjusted annually by HUD <p>The following qualify as dependents:</p> <ul style="list-style-type: none"> • Household members who are not the head or spouse and are under 18; or • A person w/ a disability; or • Full-time student [must provide documentation from school that the dependent is enrolled full-time] <p>Remember: Unborn children, foster children, foster adults do NOT qualify for the dependent deduction.</p>	§ 5.611(a)(1)
2.	\$525 Elderly or Disabled Family Deduction	<p>\$525 for any elderly or disabled <u>family</u></p> <ul style="list-style-type: none"> • 1 deduction per family (not per person) • \$525 may be adjusted by HUD <p>Upon death of an elderly tenant, the non-elderly surviving members (younger than 62) who were tenants at time of death, may continue to reside in the unit but may not claim the elderly deduction.</p> <ul style="list-style-type: none"> • HB-2-3560 Paragraph 6.28 (p. 6-49) sets forth additional requirements. 	<p>§ 5.611(a)(2)</p> <p>HB-2-3560 6.9C.3 p. 6-13</p>
3.	Child Care Expenses When Required for Employment	<p>Reasonable child care expenses necessary for the care of children under 13 to enable a family member to be <u>employed</u> or to further the tenant's <u>education</u>; no other adult household member is available to care for the children</p> <p>Foster Children Under 13: Reasonable unreimbursed child-care expenses for foster children under 13 may be deducted from annual income if those expenses are necessary to enable</p>	<p>§ 5.611(a)(4)</p> <p>HUD Notice H2023-10 E.2.</p>

		<p>a family member to work, look for work, or to further their education.</p> <p>Note: Expenses cannot exceed the income generated by that household member; cost and hours of childcare must coincide w/ the hours the household member works or goes to school.</p> <p>The childcare provider cannot be a household member</p>	<p>HB-2-3560 6.9C.2 p. 6-13</p>
4.	<p>Certain Unreimbursed Medical/ Disability Expense Deduction</p> <p>[Elderly/ Disabled Only]</p>	<p>The sum of the following only to the extent the sum exceeds 10% of Annual Income</p> <p>(1) Unreimbursed “health & medical expenses” [defined below] of any <u>elderly</u> or <u>disabled</u> family</p> <p>+</p> <p>(2) Unreimbursed reasonable <u>attendant care</u> & <u>auxiliary apparatus</u> expenses for each family member who is a person w/ a disability, to the extent necessary to enable any family member <u>to be employed</u>.</p> <ul style="list-style-type: none"> • Cannot be paid to member of the family <p><u>Attendant Care</u>: includes teaching a person w/ disabilities how to perform day-to-day tasks independently like cleaning, bathing, doing laundry, and cooking. Attendant care can be 24-hour care, or care during sporadic periods throughout the day.</p> <p><u>Auxiliary Apparatus</u>: includes expenses for wheelchairs, ramps, adaptations to vehicles, guide dogs, assistance animals, or special equipment to assist a person who is deaf or hard of hearing.</p> <p>Caveat: This deduction may not exceed the combined earned income received by family members who are 18 years or older and who are able to work b/c of such attendant care or auxiliary apparatus.</p> <p>Note: Not all qualifying expenses are deductible. Only those expenses that exceed the 10% threshold are deductible.</p>	<p>§ 5.611(a)(3)</p> <p>HUD Notice H2023-10 C.3.b</p> <p>HUD Notice H2023-10 C.3.b</p> <p>§ 5.611(a)(3)</p>
4.A	<p>Medical Expense Practice Point</p>	<p>Use historical information about medical bills to estimate future expenses but be realistic. If a household incurs a significant medical expense that is not likely to be incurred in the future, then do not count that medical expense when trying to estimate future medical expenses.</p>	<p>HB-2-3560 § 6.9.C.5 (p. 6-15)</p>

4.B	Medical Expense Piggyback Rule	If the household qualifies for the health & medical care expense deduction, <i>expenses of all household members are eligible</i> not just the elderly tenant. <ul style="list-style-type: none"> Example: if household includes grandmother (64), son (37), and granddaughter (6), medical expenses of all 3 household members will be eligible. 	HB-2-3560 § 6.9.C.5 (p. 6-15)
4.C	Definition of Health and Medical Care Expenses	Any costs incurred in the diagnosis, cure, mitigation, treatment, or prevention of disease or payments for treatments affecting any structure or function of the body. Health and medical care expenses include medical insurance premiums and long-term care premiums that are paid or anticipated during the period for which annual income is computed.	§ 5.603(a)
5.	Verification	Refer to Attachment 6-H of HB-2-3560 for forms of verification	
<i>Hardship Exemptions for Health & Medical Care Expense and Disability Assistance Expense Deductions</i>			
<p>There are 2 hardship exemptions for the Health & Medical Care Expense and Disability Assistance Expense deductions:</p> <ul style="list-style-type: none"> (1) Phased-in Relief; and (2) General Relief. <p>A family receiving phased-in relief may request to receive general hardship relief instead; once a family chooses to obtain general hardship relief, a family may no longer receive the phased in relief. HB-2-3560 § 6.9.C.5 (p. 6-15)</p>			
<i>A. Hardship Exemption 1: Phased-In Relief for Families Already Receiving Health & Medical Deduction</i>			
<p>Eligibility: All families receiving a deduction from annual income of qualified health & medical expenses exceeding 3% of annual income as of July 1, 2025 will have a phase in to the new deduction amount over two years beginning at their next annual recertification or interim recertification, whichever occurs first on or after July 1, 2025:</p> <ul style="list-style-type: none"> Year 1: Deduct eligible expenses exceeding 5% of the family's income. Year 2: Deducts eligible expenses exceeding 7.5% of the family's income. Verification must be w/i 120 days of certification. <p>Phased-In Relief Termination: After 24 months, this hardship exemption expires and only those qualifying health and medical expenses exceeding the 10% threshold will be deducted unless the family qualifies for the general hardship exemption addressed below.</p>			<p>§ 5.611(c)(1)</p> <p>HUD Notice H 2023-10 C.4</p>

<i>Tenant Moves From One RD Property to Another</i>	
If a family moves from one RD property to another RD property, the phased-in relief may continue. Owners must establish their own policy if they choose to continue the phased-in hardship relief for households who were eligible for relief as of July 1, 2025 and who are treated as new admissions at their property.	HB-2-3560 § 6.9.C.5 (p. 6-16-17)
<i>B. Hardship Exemption 2: General Financial Hardship Exemption for An Elderly or Disabled Family</i>	
For elderly or disabled families or a family that includes a person w/ disabilities that experience financial hardship.	§ 5.611(c)(2)
<u>Eligibility:</u> To qualify for this general hardship exemption:	§ 5.611(c)(2)(i)
<ul style="list-style-type: none"> Families either: (a) must demonstrate that the family’s applicable health and medical care expenses or reasonable attendant care and auxiliary apparatus <u>expenses increased</u>; <i>or</i> (b) the family’s financial hardship is a result of a change in circumstances that would not otherwise trigger an interim reexamination. <ul style="list-style-type: none"> <u>Note:</u> This relief is available regardless of whether the family previously received deductions for health & medical expenses. 	§ 5.611(c)(2)(ii)
<u>Examples</u> of circumstances constituting a financial hardship:	HUD Notice H 2023-10 C.4.b
<ul style="list-style-type: none"> Family is awaiting eligibility determination for a federal, state, or local assistance program, such as a determination for unemployment compensation or disability benefits; or The family’s income decreased b/c of a loss of employment, death of a family member, or due to a natural or federal/state declared disaster. Other circumstances as determined by the housing provider 	HB-2-3560 § 6.9.C.5 (p. 6-16-17)
<i>Form of Relief For General Financial Hardship Exemption</i>	
The family will receive a deduction for the sum of the following expenses that exceed 5% of annual income :	
<p>(i) the eligible health & medical expenses; or</p> <p>(ii) unreimbursed reasonable attendant care and auxiliary apparatus expenses for each family member w/ a disability to the extent necessary to enable any family member to be employed</p>	

General Financial Hardship Relief Termination	
<p>The relief ends upon the earlier of:</p> <ul style="list-style-type: none"> (i) when the circumstances that made the family eligible for the relief are no longer applicable; or (ii) after 90 days. 	HUD Notice H 2023-10 C.4.b
<p>Note 1: Landlord must develop policies requiring families to report if the circumstances that made the family eligible for the hardship exemption are no longer applicable.</p> <p>Note 2: Do not conduct an interim reexamination to add, remove, or extend a hardship exemption unless another change experienced by the family triggers an interim reexamination under the applicable regulation or in accordance w/ Landlord's discretionary policies (if any) on conducting interim reexaminations for adjusted income decreases that are less than 10%. Instead, process and submit a non-interim reexamination transaction.</p>	
C. Childcare Expense Hardship Exemption	§ 5.611(d)
<p>A household may apply for the childcare hardship exemption when a household is no longer eligible to claim childcare expense deduction, but the household is unable to pay their rent b/c of the loss of the deduction. This allows a household to continue receiving a child-care expense deduction in certain circumstances when the household: (1) no longer has a member that is working, (2) looking for work, or (3) seeking to further their education, and (4) the deduction is necessary b/c the household is unable to pay their rent</p> <p>Must recalculate the family's adjusted income and continue the child-care deduction if:</p> <ul style="list-style-type: none"> 1. the family demonstrates that it is unable to pay rent b/c of loss of the child-care expense deduction; and 2. the child-care expense is still necessary even though the family member is no longer employed or furthering his education. <p>Duration: 90-days but may be extended for additional 90-day period based on family circumstances for as many 90-day periods as the hardship continues to affect the family.</p> <p>Foster Child Under 13: When unreimbursed child-care expense is for the care of a foster child under 13, a family may be eligible to continue to receive the child-care expense deduction via hardship only if the unreimbursed child-care expense for the care of the foster child is paid from the family's annual income (and not another source, such as a stipend from a child welfare agency).</p>	<p>HB-2-3560 § 6.9.C.5 (p. 6-18)</p> <p>HUD Notice H 2023-10 C.6.e</p> <p>HUD Notice H 2023-10 E.2</p>

<i>Childcare Expense Hardship Exemption Examples</i>	
<ul style="list-style-type: none"> Household member loses their employment income and will be a full-time student w/i next 90 days. They may need to pay childcare to keep their spot at the childcare center. Household member, or care of a family member, who has medical, or health treatments and childcare is needed. 	HB-2-3560 § 6.9.C.5 (p. 6-18)
<i>Policy Requirements (For Both General Hardship and Health & Medical Expense Deduction)</i>	§ 5.611(e)
<p>The Landlord must establish a policy on how it defines what constitutes a hardship, which includes determining the family's inability to pay the rent with respect to the health and medical care expense deduction and for the child-care expense hardship exemption.</p> <ul style="list-style-type: none"> This is a nebulous standard. To avoid any claim of violating fair housing laws, Landlords may consider simply disallowing the hardship exemptions in all circumstances. <ul style="list-style-type: none"> If a policy is adopted, consider adopting a percent threshold (such as if child-care expenses or health and medical expenses) is more than 45% of the family's adjusted income. Landlord must describe these policies in their ACOPs, Management Plans, Administrative Plans, or Tenant Selection Plans, as applicable. 	<p>HUD Notice H 2023-10 C.6.a</p> <p>HUD Notice H 2023-10 C.6.b</p>
<i>Written Notification Requirements</i>	HUD Notice H 2023-10 C.6.b
<p>Landlord must also notify, <u>in writing</u>, the family receiving the hardship:</p> <p>(1) when the hardship exemption will begin and expire;</p> <p>(2) that the family must report to Landlord if the circumstances that made the family eligible for relief are no longer applicable,</p> <p>(3) the change in the determination of adjusted income and the family's rent resulting from the application of the hardship exemption, and</p> <p>(4) that the family's adjusted income and tenant rent will be recalculated upon expiration of the hardship exemption.</p> <p>(5) Landlord must also provide families 30 day's notice of any increase in rent.</p>	HUD Notice H 2023-10 C.6.b
<i>6. Written Notification of Denial</i>	HUD Notice H 2023-10 C.6.c
<p>Must notify families in writing if they are denied either:</p> <p>(1) an initial hardship exemption; or</p> <p>(2) an additional 90-day extension of the exemption.</p> <p>and specifically state the reason for denial.</p>	HUD Notice H 2023-10 C.6.c

VII. VERIFICATION

See **Attachment 6-H** to BH-2-3560 for the chart on verification.

HOTMA Change: A current checking account statement will be sufficient to verify a checking account balance for RD properties. There is no longer a requirement to use a 6-month average balance for checking accounts. Properties financed with HOME funds, however, are not permitted to verify a checking account balance with only one current checking account balance, but should use two current checking account balances.