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Income Eligibility for HOME and HTF

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- Agenda
 - Income Basics
 - Determining Income Eligibility
 - Part 5 and IRS Definitions
 - CPD Income Eligibility Calculator Demonstration

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Income Basics

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A Few Key Acronyms & Terms

HOME	HTF
Low Income <ul style="list-style-type: none">• A household at or below HUD published 80% of AMI	N/A
Very low- income <ul style="list-style-type: none">• A household at or below HUD published 50% of AMI	N/A unless HTF is greater than \$1 billion
Extremely low –income <ul style="list-style-type: none">• A household at or below HUD published 30% of AMI	Extremely low-income <ul style="list-style-type: none">• A household at or below HUD published 30% of AMI (at or below the poverty line, whichever is greater)

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A Few Key Acronyms & Terms

Annual Income	Adjusted Income
Used for Program Eligibility	Not for Program Eligibility, for determining tenant contribution toward rent/utilities and/or subsidy amounts
Sum of income for all household members expected to reside in HOME/HTF unit	Family's income after making mandatory deductions from annual income as specified at 24 CFR 5.611
Determined using one of the two definitions	Used infrequently, for specific purposes such as for TBRA or when a HOME only tenant's income rises above 80% of AMI

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Overview of Income Determination

- 100% of HOME must benefit low-income (deeper targeting for rental/TBRA)
- 100% of HTF must benefit extremely low-income (\$ less than a \$1 billion in the fund)
- Income eligibility must be determined for each assisted household
 - Includes all tenants, owners, buyers
 - Documentation is required
- If program administrator does not have income documentation, the project is noncompliant
 - HUD may require repayment of HOME/HTF investment and/or other corrective action

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Projecting Income Forward

- Use a snapshot of the household – members and income – to project income forward for 12 months
- Steps to projecting annual income
 - Step 1: Collect appropriate income documentation
 - Step 2: Ask questions about raises or other anticipated income changes (from employer, applicant)
 - Step 3: Calculate applicant household's projected income based upon documentation
 - Step 4: Compare amount of projected income against current HOME/HTF income limits for the household size
 - Step 5: Include income limit used and date in file to document actions

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Overview of Annual Gross Income Eligibility Process

Receive Application, Release from HH, and Income and Asset Source Documentation



Calculate HH Income Using Worksheet

- If Part 5 (Section 8) definition, asset calculation



Compare to HUD Published Income Limits



Document Files

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Determining Income Eligibility

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Two Income Definitions

- Program administrators may select one of two income definitions for each activity
 - Part 5 (“Section 8”) Annual Income
 - IRS 1040 Adjusted Gross Income
- Definition may vary among activities, but not for participants within same activity

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Income Eligibility for Program Activities

- Program administrators must identify income definition in:
 - Program policies and procedures
 - Written agreements with subrecipients, HTF subgrantees, owners, sponsors and developers, and any other partner
- Application
 - All household members, including ages
 - Ask for income and asset sources for each household member, depending upon definition chosen
 - Use signed declaration language
- 60 days of source documentation required, even if using third party verification forms (e.g., VOE from employer)

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Income Eligibility Procedures (cont)

- Include forms to be used (local design)
 - Release from household (sample in Technical Guide)
 - Income calculation worksheet for definition chosen (samples in Technical Guide)
 - Part 5, page 23
 - IRS, page 39 (Note, this is not updated using the most current IRS 1040 form and instructions)
 - Third party verification

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Income Eligibility Procedures (cont)

- Source documents include pay stubs, Social Security award letters, etc.
 - If using pay stubs, review several to determine patterns
 - Verify overtime, tips and bonuses
 - NOTE: This is not third-party verification
- Copies of tax returns are okay if:
 - Circumstances have not changed since filing (if income likely to remain same next year)
 - Use tax return to determine income information (e.g. self employment, other sources of income)
 - If sole documentation: obtain certified IRS copy by using form 4506 or 4506T (free)

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Determination of Applicant Household

- Count income of ALL adults who will be in residence or part of household when HOME/HTF assistance received
- Include all household members:
 - Related and unrelated household members
 - Temporarily absent household members

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Determination of Applicant Household (cont)

- Don't count foster children/legal kinship guardians or foster adults, live-in aides and children of live-in aides
 - Income and/or benefits are also not counted (except unearned income of foster children)
- Program administrator option to count unborn children or not
 - Recent change with January 2005 version of technical guide
 - Suggest adding question to application on household changes within next 12 months
- Shared custody children
 - Count if at least 50% of time is with household seeking HOME assistance
- Students (HOME only) – see next slide

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- Student Rule (HOME only)
 - Definition of low/very low income families at § 92.2 clarified and updated to address students (adopts the Section 8 standard at 24 CFR 5.612)
 - Students under age 24 do not qualify as a low income household unless:
 - Independently eligible or member of income eligible household; or
 - Specific exceptions: veteran, married (including same-sex), has dependent child, or is disabled and was receiving Sec. 8 assistance as of 11/30/2005
 - Applies to any HOME-assisted household, regardless of activity
 - New households: income determinations on/after 8/23/2013
 - Existing rental households: in place tenants are not “grandfathered in,” handle at recertification

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- In place students (HOME only)
 1. In place students are members of another household
 - Determine composition and income of that household
 - AMI based on location of household's primary residence
 - HOME requires source documentation
 2. Apply over-income tenant rules to (re-)achieve compliance with HOME unit mix
 - Varies for fixed/floating units

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Income Recertification

- Must recertify income at least annually:
 - Must review source documents every 6th year of the affordability period
 - For other years can use:
 - Source documents
 - Written statement from household
 - Statement from administrator of another program
- Recertify at:
 - Anniversary date of initial verification;
 - Lease renewal; or
 - Annual schedule where all tenant incomes are verified at one point

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Part 5 and IRS Definitions

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Two Definitions of Income

- Part 5 (Section 8) Definition of Income (24 CFR 5.609 (b) & (c))
 - Income inclusions and exclusions
 - <https://www.hudexchange.info/resource/5180/part-5-section-8-income-inclusions-and-exclusions/>
 - Assets & Imputed asset calculation
- IRS 1040 Adjusted Gross Definition of Income
 - Income & asset inclusions and 1040 deductions
 - Instructions - <https://www.irs.gov/pub/irs-pdf/i1040gi.pdf>
 - What's New - helpful each year to review

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Part 5 Income Inclusions

- Wages, salaries, overtime, commissions, tips, and bonuses
- Net income from operation of a business or profession
- Periodic payments (Social Security, annuities, regular contributions to income)
- Payments in lieu of earnings (Unemployment, TANF, etc.)
- Welfare assistance (not food stamps)
- Periodic and determinable allowances, alimony and child support
- All regular pay, special and allowances for armed forces (not hostile fire)
- Earnings of temporarily absent household members

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Part 5 Income Exclusions

- Earned income of minors under age 18 [unearned income (e.g., child support, SSI) is counted]
- Earned income of live-in aides
- Payments for foster care/legal kinship guardians
- Lump sum additions to assets (e.g., inheritances, lottery winnings)
- Reimbursement of medical expenses
- Certain increases in income of disabled household members in HOME rental units or TBRA (at recertification only)

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Part 5 Income Exclusions (cont)

- Student financial assistance (scholarships, student loans) paid directly to the student or to the educational institution (NOTE: unless Section 8 household over age 23 with dependent children)
- Hostile fire pay for active military
- Training programs funded by HUD (e.g., under Section 3)
- Sporadic or temporary income (including gifts)
- Earnings over \$480 for full-time students (adults 18 years of age and older)
- Adoption assistance over \$480 per adopted child

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Part 5 Income Exclusions (cont)

- Deferred payments of SSI and veterans benefits (e.g., lump sum payments)
- Refunds/rebates by state or local law
- State agency payment for care of developmentally disabled member
- Various Federal statutes exclude, for example:
 - Food stamps
 - Payments to volunteers (e.g., VISTA, AmeriCorps, etc.)
 - Title V of Older American Act
 - Earned income tax credits

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Part 5 Income: Assets

- A cash or non-cash item that could be converted to cash
- No asset limitation in HOME/HTF Programs
 - Program administrators may have own policy on limitation
- Income from assets must be included in annual income under the Part 5 definition
 - LIHTC program does not include assets totaling less than \$5,000; HOME/HTF considers all assets in Part 5 asset calculation

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Part 5: What to Include as an Asset

- Market value – dollar value on open market
 - Do not include value of home for HOME owner-occupied rehabilitation activities
- Cash value – market value minus reasonable expenses to convert asset to cash
 - Example: land worth \$25,000 – cost to sell is \$2,500; value of asset is \$22,500

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Part 5 Unique Rule: Imputed Asset Calculation

- If asset produces little or no income, an “imputed asset” calculation is performed:
 - Rule only applies when total cash value of all assets is greater than \$5,000
 - Calculate imputed income based on a Passbook Rate
 - Use “greater of” actual or imputed earnings
 - Passbook Rate, three options
 1. Use the same passbook savings rate used by their local public housing authority (PHA);
 2. Use the passbook savings rate published by HUD’s Office of Multifamily Housing; or
 3. Establish its own passbook savings rate.

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Part 5 Unique Rule: Assets Disposed of Below FMV

- Any asset disposed of for less than FMV during 2 years preceding income determination must be counted as if household still owned asset
- Include difference between cash value of asset and amount actually received in disposition

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IRS 1040 Definition of Income

- Use IRS Long Form –1040EZ no longer used in 2018
 - Must use current IRS 1040 form and instructions on definition
- Certain kinds of income are added together to get gross income
- Certain deductions are then taken to arrive at adjusted gross income figure
 - This is not “adjusted income”
 - Use most current 1040 deductions
- Use IRS 1040 adjusted gross income to determine program eligibility
- Program administrators must use the most recent IRS 1040 Instructions

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IRS 1040 Definition (cont)

- Subtract applicable deductions from gross income to obtain the household's adjusted gross income
- Schedule 1 deductions include, for example:
 - Educator expenses
 - Certain business expenses of reservists, performing artists, and fee-basis government officials (form 2106)
 - IRA deduction
 - Health savings account payments (form 8889)
 - Moving expenses for members of the Armed Forces (form 3903)
 - Deductible part of self-employment tax (Schedule SE)
 - Self-employed SEP, SIMPLE, and qualified plans
 - Self-employed health insurance deduction
 - Penalty on early withdrawal from savings
 - Alimony paid (need recipient SSN)
 - Student loan interest deduction

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IRS 1040 Definition (cont)

- Inclusions for gross income
 - Taxable interest
 - Dividends
 - Taxable amount of Social Security, IRAs, pensions and annuities
 - Schedule 1 Additional Income
 - Taxable refunds, credits, etc.
 - Alimony received
 - Business and/or farm income (or loss)
 - Capital gains or losses
 - Rental real estate, royalties, partnerships, S corporations, etc.
 - Unemployment Compensation

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IRS 1040 Definition (cont)

- Exclusions from gross income
 - Life insurance proceeds
 - Inherited money or property
 - Child support received

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IRS 1040 Definition: Assets

- Assets
 - Part 5 asset calculation is not required
 - Income from assets must still be counted (see prior slide):
 - Taxable interest
 - Dividends

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Comparing Definitions of Income

Part 5	IRS 1040
No deductions	List of deductions (e.g., student loan interest, educator expenses, IRA deduction, etc.)
Includes welfare assistance payments (e.g., TANF)	Excludes welfare assistance payments (e.g., TANF)
Includes gross amount of Social Security	Includes taxable amount of Social Security
Includes child support received	Excludes child support received
Includes alimony payments received	Recipients of alimony – counted as income. Payers of alimony - deduction
Imputed assets calculation for cash value of \$5,000 or more	Excludes assets unless taxable (e.g., taxable interest, IRA, pensions)

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Comparing Definitions of Income (cont)

- If projects also funded with LIHTC, program administrators must use Part 5
- If PHA is managing a program, they are often experts in Part 5
- Part 5 can be more complex to document and calculate but rental project developers may already have S. 8 tenants
- IRS 1040 (if households receive SS) definition requires knowledge of the most current year “taxable amounts”

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Wrap Up

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Next Steps

- Make a list of “to do” items
- Review HOME and HTF program applications, amend as necessary
- Review your income policies and procedures, update as necessary
- Assess your income documentation templates/forms, update as necessary
- Encourage usage of HUD Exchange CPD Income Eligibility Calculator
- Train subrecipients, HTF subgrantees, developers and managers on income eligibility
- Review your files to ensure accurate and complete

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- Technical Guide for Determining Income and Allowances Under the HOME Program
 - <https://www.hudexchange.info/resource/786/technical-guide-for-determining-income-and-allowances-for-the-home-program/>
- HUD Handbook 4350.3 Ch. 4 Occupancy Requirements of Subsidized Multifamily Housing Programs (Chapter 5)
 - Updated when changes made to Part 5 regulations
 - Used in HUD multifamily programs with S. 8 assistance tied to project
 - Cannot be uniformly adopted for HOME
 - https://www.hud.gov/program_offices/administration/hudclips/handbooks/hsg/4350.3

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- HUD Exchange HOME Main Page
 - <https://www.hudexchange.info/programs/home/>
- HOME income limits
 - <https://www.hudexchange.info/manage-a-program/home-income-limits/>
 - FY2018 effective June 1, 2018
- HOME Income Forms
 - <https://www.hudexchange.info/programs/home/topics/income-determination/>
- Determining Income Webinar June 2018
 - <https://www.hudexchange.info/trainings/courses/determining-income-for-the-home-program-session-1/2532/>
- HUD Exchange list serve
 - <https://www.hudexchange.info/maillinglist/>

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Housing Opportunity Through Modernization Act (HOTMA)

HUD is currently engaged in rulemaking after the passage of the Housing Opportunity Through Modernization Act of 2016, Public Law 114-201 on July 29, 2016

- HUD published a proposed rule to implement HOTMA, comments closed on 11/18/19
 - <https://www.hudexchange.info/news/hud-publishes-new-proposed-rule-housing-opportunity-through-modernization-act-of-2016-implementation-of-sections-102-103-and-104/>
- Public Law 114-201
 - <https://www.gpo.gov/fdsys/pkg/PLAW-114publ201/pdf/PLAW-114publ201.pdf>
- HUD Initial Implementation Guidance
 - <https://www.federalregister.gov/documents/2016/10/24/2016-25147/housing-opportunity-through-modernization-act-of-2016-initial-guidance>