HOTMA Implementation Guidance

UPDATED 2024

LIHTC, HOME, NHTF Edition

As announced in this blog, HUD has adjusted HOTMA Implementation guidance by releasing a revised version of the joint MFH/PIH Notice originally released last September. The updated Notice can be downloaded **HERE**. Here we will summarize most of the changes. Most of the refinements change policies for HUD properties.

This version of the article focuses on Items that will affect LIHTC properties

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Attachment F | In **F.1 of the notice,** clarifying language is added to address how PHAs/MFH owners must consider certain amounts that are taken out of a person's wages or benefits before the family receives them. When a family member's wages or benefits are garnished, levied, or withheld to pay restitution, child support, tax debt, student loan debt, or other applicable debts, PHAs/MFH Owners must use the gross amount of the income, ***before the reduction***, to determine a family's annual income. This is in contrast to child support or alimony, where only income received is counted as income.

F.4.e, the method for subtracting federal tax refunds and refundable tax credits from assets is changed to accurately reflect HOTMA's statutory and regulatory requirements. The notice originally stated that the tax refund was to be subtracted ***from the asset account into which the tax refund amount was deposited***. To align with HOTMA, the tax refund ***must instead be subtracted from the total value of net family assets***. HUD deleted the reference to a tax refund or refundable tax credit that is deposited into an excluded asset, as this is incorrect. The tax refund/credit amount must be subtracted from total net family assets, **regardless of where the amount is deposited.**

In **F.5,** regarding the start date for using the HUD's passbook rate, HUD updated the date of January 1, 2024, with the date on which the PHA/MFH Owner implements the new passbook rate. Also added is clarifying language on PHA flexibility around passbook rates up until they implement the new passbook rate. Depending on the state LIHTC agency's HOTMA implementation policy, this may apply to LIHTC properties.

Attachment G | G.1.f, HUD clarified that non-recurring, non-monetary in-kind donations from friends and family may be excluded as non-recurring income. Be careful to note that these must be truly *nonrecurring* and will be counted if they will recur, even if they are sporadic.

G.6, clarifies that workers' compensation payments, regardless of the length or frequency of the payments, are always excluded from annual income. This changes the former guidance that counted worker's compensation if it was going to last a full 12 months after the effective date of a certification.

Example G6 was updated to reflect the above clarification.

In **G.16.d,** HUD corrected the example reference to **Example G13**, (from Example G1) and reversed the wording on the process for calculating the excess amount of student financial assistance included in annual income. The previous one-step process was described incorrectly and it said that student financial assistance was subtracted from student expenses. It is the opposite. This error was also corrected in **Chart G2**.

J.5.a, clarified that PHAs/MFH Owners are required to obtain a minimum of two current and consecutive pay stubs for determining *projected* annual income from wages when they are relying on pay stubs for **Level 4** documentation. The word projected has been added in this version.

Appendix: Sample Net Family Assets Self-Certification Form | This new Appendix has been added. **This form covers many items related to asset limitations that do not apply to LIHTC properties. Alternate forms will likely serve non-HUD properties better.**

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