

## § 5.609 Annual income.

(a) *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 **paragraph (c)** of this section.
- (4) **Annual income** also means amounts derived (during the 12-month period) from assets to which any member of the **family** has access.

(b) **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 (b)(2)** of this section. 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**. 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;
- (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 (c)(14)** of this section);
- (5) Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except as provided in **paragraph (c)(3)** of this section);
- (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 [paragraph \(c\)](#) of this section.

(ii) 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:

(A) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

(B) 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 \(c\)\(7\)](#) of this section).

(9) For section 8 programs only and as provided in [24 CFR 5.612](#), any financial assistance, in excess of amounts received for tuition and any other required fees and charges, 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.

(c) **Annual income** does not include the following:

(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);

(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 \(b\)\(5\)](#) of this section);

- (4) Amounts received by the **family** that are specifically for, or in reimbursement of, the cost of **medical expenses** for any **family** member;
- (5) Income of a **live-in aide**, as defined in § 5.403;
- (6) Subject to **paragraph (b)(9)** of this section, the full amount of student financial assistance paid directly to the student or to the educational institution;
- (7) The special pay to a **family** member serving in the Armed Forces who is exposed to hostile fire;
- (8)
- (i) Amounts received under training programs funded by **HUD**;
  - (ii) 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);
  - (iii) 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;
  - (iv) 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;
  - (v) 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);
- (12) Adoption assistance payments in excess of \$480 per adopted **child**;
- (13) [Reserved]

**(14)** Deferred periodic amounts from supplemental security income and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts, or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts.

**(15)** 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;

**(16)** 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

**(17)** 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 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.

**(d) Annualization of income.** If it is not feasible to anticipate a level of income over a 12-month period (*e.g.*, seasonal or cyclic income), or the [PHA](#) believes that past income is the best available indicator of expected future income, the [PHA](#) may annualize the income anticipated for a shorter period, subject to a redetermination at the end of the shorter period.

[[61 FR 54498](#), Oct. 18, 1996, as amended at [65 FR 16716](#), Mar. 29, 2000; [67 FR 47432](#), July 18, 2002; [70 FR 77743](#), Dec. 30, 2005; [79 FR 36164](#), June 25, 2014; [81 FR 12370](#), Mar. 8, 2016]

- [Higher Education Act of 1965](#)
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