
CHAPTER 5. DETERMINING INCOME AND CALCULATING RENT

5-1 Introduction

- A. Owners must determine the amount of a family's income before the family is allowed to move into assisted housing and at least annually thereafter. The amount of assistance paid on behalf of the family is calculated using the family's annual income less allowable deductions. HUD program regulations specify the types and amounts of income and deductions to be included in the calculation of annual and adjusted income.
- B. Although the definitions of annual and adjusted income used for the programs covered in this handbook have some similarities with rules used by the U.S. Internal Revenue Service (IRS), the tax rules are different from the HUD program rules.
- C. The most frequent errors encountered in reviews of annual and adjusted income determinations in tenant files fall in three categories:
1. Applicants and tenants failing to fully disclose income information;
 2. Errors in identifying required income exclusions; and
 3. Incorrect calculations of deductions, often the result of failure to obtain third-party verification.

Careful interviewing and thorough verification can minimize the occurrence of these errors.

- D. Chapter 5 is organized as follows:
- **Section 1: Determining Annual Income** discusses the requirements regarding annual income and the procedure for calculating a family's annual income when determining eligibility. This section also includes guidance on determining income from assets.
 - **Section 2: Determining Adjusted Income** describes the procedures and requirements for determining adjusted income based on allowable deductions.
 - **Section 3: Verification** presents the requirements for verifying information provided by applicants and tenants related to their eligibility.
 - **Section 4: Calculating Tenant Rent** discusses the methods for calculating the tenant's portion of rent under the different programs covered by this handbook.

5-2 Key Terms

- A. There are a number of technical terms used in this chapter that have very specific definitions established by federal statute or regulations, or by HUD. These terms are listed in Figure 5-1 and their definitions can be found in the Glossary to this handbook. It is important to be familiar with these definitions when reading this chapter.
- B. The terms “disability” and “persons with disabilities” are used in two contexts – for civil rights protections, and for program eligibility purposes. Each use has specific definitions.
 - 1. When used in context of protection from discrimination or improving the accessibility of housing, the civil rights-related definitions apply.
 - 2. When used in the context of eligibility under multifamily subsidized housing programs, the program eligibility definitions apply.

NOTE: See the Glossary for specific definitions and paragraph 2-23 for an explanation of this difference.

Figure 5-1: Key Terms

<ul style="list-style-type: none"> • Adjusted income • Annual income • Assets • Assistance payment • Assisted rent • Assisted tenant • Basic rent • Co-head of household • Contract rent • Dependent • *Enterprise Income Verification (EIV)* • Extremely low-income family • Foster adult • Foster children • Full-time student • Gross rent • Hardship exemption • Head of household • Housing assistance payment (HAP) • Income limit 	<ul style="list-style-type: none"> • Live-in aide • Low-income family • Market rent • Minimum rent • Operating rent • Project Assistance Contract (PAC) • PRAC Operating Rent • Project Rental Assistance Contract (PRAC) • Project assistance payment • Project rental assistance payment • Tenant rent • Total tenant payment • Unearned income • Utility allowance • Utility reimbursement • Very low-income family • Welfare assistance • Welfare rent
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Section 1: Determining Annual Income

5-3 Key Regulations

This paragraph identifies the key regulatory citation pertaining to Section 1: Determining Annual Income. The citation and its title are listed below.

- *24 CFR 5.233 Mandated Use of HUD's Enterprise Income Verification (EIV) System*
- 24 CFR 5.609 Annual Income

5-4 Key Requirements

- A. Annual income is the amount of income that is used to determine a family's eligibility for assistance. Annual income is defined as follows:
1. All amounts, monetary or not, that go to or are received on behalf of the family head, spouse or co-head (even if the family member is temporarily absent), or any other family member; or
 2. All amounts anticipated to be received from a source outside the family during the 12-month period following admission or annual recertification effective date.
- B. Annual income includes all amounts that are not specifically excluded by regulation. Exhibit 5-1, Income Inclusions and Exclusions, provides a list of income inclusions and exclusions published in the regulations and *Federal Register* notices.
- C. Annual income includes amounts derived (during the 12-month period) from assets to which any member of the family has access.

5-5 Methods for Projecting and Calculating Annual Income

- A. The requirements for determining whether a family is eligible for assistance, and the amount of rent the family will pay, require the owner to project or estimate the annual income that the family expects to receive. There are several ways to make this projection. The following are acceptable methods for calculating the annual income anticipated for the coming year:
1. Generally the owner must use current circumstances to anticipate income. The owner calculates projected annual income by annualizing *current* income. Income that may not last for a full 12 months (e.g., unemployment compensation) should be calculated assuming current circumstances will last a full 12 months. If changes occur later in the year, an interim recertification can be conducted to change the family's rent.

2. If information is available on changes expected to occur during the year, use that information to determine the total *anticipated* income from all known sources during the year.
3. *Using EIV:
 - (a) The owner must not use the quarterly wage income reported on the EIV Income Report for calculating the tenant's annual income from employment. The owner must confirm with the tenant that the information in EIV is correct. If the tenant agrees that the employment information reported in EIV is correct, the owner must:
 - (1) Use the Income Report as third party verification of the tenant's employment; and
 - (2) Use tenant provided documents for calculating the tenant's annual income, e.g. 4-6 current, consecutive check stubs.

Example 1: EIV shows that John is working at Jack's Restaurant and John agrees that he is working there. John has brought in his four most current, consecutive check stubs. The owner must use the EIV Income Report as third party verification that John is employed at Jack's Restaurant and use the gross pay shown on the check stubs provided by the tenant for determining John's annual income. John is paid weekly.

Check stubs – gross pay 1) \$120; 2) \$145; 3) \$125; 4) \$130 – total gross pay = \$520

$\$520 / 4 = \130 average gross pay per week

$\$130 \times 52 \text{ weeks} = \$6,760$ gross annual income

Example 2: EIV shows Sally works at Beauty World and Sally agrees that she is working there. Sally has brought in a payroll summary report prepared by her employer which shows that Sally works 30 hours per week and earns \$12.50 per hour. The owner must use the EIV Income Report as third party verification that Sally is employed at Beauty World and use the payroll summary report prepared by Beauty World for determining Sally's annual income.

$30 \text{ hours} \times 52 \text{ weeks} = 1,560 \text{ hours per year}$

$\$12.50 \text{ per hour} \times 1,560 \text{ hours} = \$19,500$ gross annual income

- b. The owner must not use the quarterly unemployment compensation benefits reported on the EIV Income Report for calculating the tenant's annual income from unemployment. The owner must confirm with the tenant that the unemployment information in EIV is correct. If the tenant agrees that he/she is receiving unemployment compensation benefits as reported in EIV, the owner must:
- (1) Use the Income Report as third party verification that the tenant is receiving unemployment; and
 - (2) Use tenant provided documents for calculating annual income, e.g. unemployment monetary benefit notice.

Example: Peter has brought in the unemployment benefit notice he received showing he is being paid weekly unemployment benefits of \$175. The owner will use the EIV Income Report as third party verification that Peter is receiving unemployment benefits and the unemployment benefit notice for determining Peter's annual income.

$\$175 \text{ per week} \times 52 \text{ weeks} = \$9,100.00 \text{ gross annual income}$

NOTE: If Peter's unemployment is terminated during the annual recertification period, Peter should report this to the owner along with documentation supporting the date of termination of the benefits. The owner will then prepare an interim recertification removing the unemployment income. If Peter is unable to provide documentation verifying termination of unemployment compensation benefits, the owner must verify the termination directly with the state workforce agency (SWA) source.

- c. If the tenant agrees with the social security benefit information on the EIV Income Report, the owner must use the EIV Income Report as third party verification, receiving social security benefits and also for calculating the tenant's annual income.

Example: The Income Report shows that Joe Smith is receiving gross social security benefits of \$980.40 per month. Joe agrees that this is the amount he is receiving. The owner will use the Income Report as third-party verification that Joe is receiving social security benefits and for calculating Joe's annual income.

$\$980.40 \times 12 \text{ months} = \$11,764.80 \text{ (rounded to } \$11,765) \text{ gross annual income.}$

- d. If the tenant disputes the employment and income information in EIV, the owner must obtain third party verification from the source.*
- B. Once all sources of income are known and verified, owners must convert reported income to an annual figure. Convert periodic wages to annual income by multiplying:
1. Hourly wages by the number of hours worked per year (2,080 hours for full-time employment with a 40-hour week and no overtime);
 2. Weekly wages by 52;
 3. Bi-weekly wages (paid every other week) by 26;
 4. Semi-monthly wages (paid twice each month) by 24; and
 5. Monthly wages by 12.

To annualize other than full-time income, multiply the wages by the actual number of hours or weeks the person is expected to work.

Example – Anticipated Increase in Hourly Rate

February 1	Certification effective date
\$7.50/hour	Current hourly rate
\$8.00/hour	New rate to be effective March 15

(40 hours per week x 52 weeks = 2,080 hours per year)

February 1 through March 15 =	6 weeks
6 weeks x 40 hours =	240 hours
2,080 hours minus 240 hours =	1,840 hours

(check: 240 hours + 1,840 hours = 2,080 hours)

Annual Income is calculated as follows:

240 hours x \$7.50 =	\$1,800
\$1,840 hours x \$8.00 =	\$14,720
Annual Income	\$16,520

(See **Appendix 8** for an explanation of the correct approach to rounding numbers.)

- C. Some circumstances present more than the usual challenges to estimating anticipated income. Examples of challenging situations include a family that has sporadic work or seasonal income or a tenant who is self-employed. In all instances, owners are expected to make a reasonable judgment as to the most reliable approach to estimating what the tenant will receive during the year. In many of these challenging situations, midyear or interim recertifications may be

required to reflect changing circumstances. Some examples of approaches to more complex situations are provided below.

Examples – Irregular Employment Income

Seasonal work. Clyde Kunkel is a roofer. He works from April through September. He does not work in rain or windstorms. His employer is able to provide information showing the total number of regular and overtime hours Clyde worked during the past three years. To calculate Clyde's anticipated income, use the average number of regular hours over the past three years times his current regular pay rate, and the average overtime hours times his current overtime rate.

Sporadic work. Justine Cowan is not always well enough to work full-time. When she is well, she works as a typist with a temporary agency. Last year was a good year and she worked a total of nearly six months. This year, however, she has more medical problems and does not know when or how much she will be able to work. Because she is not working at the time of her recertification, it will be best to exclude her employment income and remind her that she must return for an interim recertification when she resumes work.

Examples – Irregular Employment Income

Sporadic work. Sam Daniels receives social security disability. He reports that he works as a handyman periodically. He cannot remember when or how often he worked last year: he says it was a couple of times. Sam's earnings appear to fit into the category of nonrecurring, sporadic income that is not included in annual income. Tell Sam that his earnings are not being included in annual income this year, but he must report to the owner any regular work or steady jobs he takes.

Self-employment income. Mary James sells beauty products door-to-door on consignment. She makes most of her money in the months prior to Christmas but has some income throughout the year. She has no formal records of her income other than a copy of the IRS Form 1040 she files each year. With no other information available, the owner will use the income reflected on Mary's copy of her form 1040 as her annual income.

5-6 Calculating Income—Elements of Annual Income

A. Income of Adults and Dependents

1. Figure 5-2 summarizes whose income is counted.

2. **Adults.** Count the annual income of the head, spouse or co-head, and other adult members of the family. In addition, persons under the age of 18 who have entered into a lease under state law are treated as adults, and their annual income must also be counted. These persons will be either the head, spouse, or co-head; they are sometimes referred to as emancipated minors.

NOTE: If an emancipated minor is residing with a family as a member other than the head, spouse, or co-head, the individual would be considered a dependent and his or her income handled in accordance with subparagraph 3 below.

3. **Dependents.** A dependent is a family member who is under 18 years of age, is disabled, or is a full-time student

The head of the family, spouse, co-head, foster child, or live-in aide are never dependents. Some income received on behalf of family dependents is counted and some is not.

- a. *Earned* income of minors (family members under 18) is not counted.
- b. Benefits or other *unearned* income of minors is counted.

Figure 5-2: Whose Income is Counted?

Members	Employment Income	Other Income (including income from assets)
Head	Yes	Yes
Spouse	Yes	Yes
Co-head	Yes	Yes
Other adult (including foster adult)	Yes	Yes
Dependents		
-Child under 18	No	Yes
Full-time student over 18	See Note	Yes
Foster child under 18	No	Yes
Nonmembers		
Live-in aide	No	No

NOTE: The earned income of a full-time student 18 years old or older who is a dependent is excluded to the extent that it exceeds \$480.

- c. When more than one family shares custody of a child, and both families live in assisted housing, only one family at a time can claim the dependent deduction. The family that counts the dependent deduction also counts the unearned income of the child. The other family claims neither the dependent deduction nor the unearned income of the child.
- d. 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.*If the earned income is less than \$480 annually, count all of the income. If the earned income exceeds \$480 annually,* count \$480 and exclude the amount that exceeds \$480.
- e. The income of full-time students 18 years of age or older who are members of the household but away at school is counted the same as the income for other full-time students. The income of minors who are members of the household but away at school is counted as the income for other minors.
- f. All income of a full-time student, 18 years of age or older, is counted if that person is the head of the family, spouse, or co-head.
- g. Payments received by the family for the care of foster children or foster adults are *not* counted. This rule applies only to payments made through the official foster care relationships with local welfare agencies.
- h. Adoption assistance payments in excess of \$480 are not counted.

B. Income of Temporarily Absent Family Members

- 1. Owners must count all income of family members approved to reside in the unit, even if some members are temporarily absent.
- 2. If the owner determines that an absent person is no longer a family member, the individual must be removed from the lease and the HUD-50059.
- 3. A temporarily absent individual on active military duty must be removed from the family, and his or her income must not be counted unless that person is the head of the family, spouse, or co-head.
 - a. However, if the spouse or a dependent of the person on active military duty resides in the unit, that person's income must be counted in full, even if the military member is not the head, or spouse of the head of the family.

- b. The income of the head, spouse, or co-head will be counted even if that person is temporarily absent for active military duty.

Examples – Income of Temporarily Absent Family Members

- John Chouse works as an accountant. However, he suffers from a disability that periodically requires lengthy stays at a rehabilitation center. When he is confined to the rehabilitation center, he receives disability payments equaling 80% of his usual income.

During the time he is not in the unit, he will continue to be considered a family member. The owner will conduct an interim recertification. Even though he is not currently in the unit, his total disability income will be counted as part of the family's annual income.
- Mirna Martinez accepts temporary employment in another location and needs a portion of her income to cover living expenses in the new location. The full amount of the income must be included in annual income.
- Charlotte Paul is on active military duty. Her permanent residence is her parents' assisted unit where her husband and children live. Charlotte is not currently exposed to hostile fire. Therefore, because her spouse and children are in the assisted unit, her military pay must be included in annual income. (If her dependents or spouse were not in the unit, she would not be considered a family member and her income would not be included in annual income.)

C. Deployment of Military Personnel to Active Duty

Owners are encouraged to be as lenient as responsibly possible to support affected households in situations where persons are called to active duty in the Armed Forces. Specific actions that owners should undertake to support military households include, but are not limited to:

1. Allow a guardian to move into the assisted unit on a temporary basis to provide care for any dependents the military person leaves in the unit. Income of the guardian temporarily living in the unit for this purpose is not counted as income.
2. Allow a tenant living in an assisted unit to provide care for any dependents of persons called to active duty in the Armed Forces on a temporary basis, as long as the head and/or co-head of household continues to serve in active duty. Income of the child (e.g., SSI benefits, military benefits) is not counted as income of the person providing the care.
3. Exclude from annual income special pay received by a household member serving in the Armed Services who is exposed to hostile fire (see Exhibit 5-1).
4. Give consideration for any case involving delayed payment of tenant rent. Determine whether it is appropriate to accept a late payment.
5. Allow the assistance payment and the lease to remain in effect for a reasonable period of time (depending on the length of deployment)

beyond that required by the Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C. §§ 501-591, even though the adult members of the military family are temporarily absent from the assisted unit.

D. Income of Permanently Confined Family Members

1. An individual permanently confined to a nursing home or hospital may not be named as family head, spouse, or co-head but may continue as a family member at the family's discretion. The family's decision on whether or not to include the permanently confined family member as a family member determines if that person's income will be counted.
 - a. *Include* the individual as a family member and the income and allowable deductions related to the medical care of the permanently confined individual are counted; or
 - b. *Exclude* the individual as a family member and the income and allowances based on the medical care of the permanently confined individual are not counted.

If the family elects to include the permanently confined member, the individual is listed on the HUD-50059 as an adult who is not the head, spouse, or co-head, even when the permanently confined family member is married to the person who is or will become the head of the family. The owner should consider extenuating circumstances that may prevent the confined member from being able to sign the HUD-50059. If the owner determines the confined member is unable to sign the HUD-50059, he owner must document the file why the signature was not obtained. If the family elects not to include the permanently confined member, the individual would not be listed on the HUD-50059.

E. Educational Scholarships or Grants

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, 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.

F. Alimony or Child Support

Owners must count alimony or child support amounts awarded by the court unless the applicant certifies that payments are not being made *and* that he or she has taken all reasonable legal actions to collect amounts due, including filing with the appropriate courts or agencies responsible for enforcing payment.

1. The owner may accept printouts from the court or agency responsible for enforcing support payments, or other evidence indicating the frequency and amount of support payments actually received.
2. Child support paid to the custodial parent through a State child support enforcement or welfare agency may be included in the family's monthly welfare check and may be designated in different ways. In some states these payments are not identified as separate from the welfare grant. In these states, it is important to determine which portion is child support and not to count it twice. In other states, the payment may be listed as child support or as "pass-through" payments. These amounts must be counted as annual income.
3. When no documentation of child support, divorce, or separation is available, either because there was no marriage or for another reason, the owner may require the family to sign a certification stating the amount of child support received.

G. Regular Cash Contributions and Gifts

1. Owners must count as income any regular contributions and gifts from persons not living in the unit. These sources may include rent and utility payments paid on behalf of the family, and other cash or noncash contributions provided on a regular basis.

Examples – Regular Cash Contributions

- The father of a young single parent pays her monthly utility bills. On average he provides \$100 each month. The \$100 per month must be included in the family's annual income.
- The daughter of an elderly tenant pays her mother's \$175 share of rent each month. The \$175 value must be included in the tenant's annual income.

2. Groceries and/or contributions paid directly to the childcare provider by persons not living in the unit are excluded from annual income.
3. Temporary, nonrecurring, or sporadic income (including gifts) is not counted.

H. **Income from a Business**

When calculating annual income, owners must include the net income from operation of a business or profession including self-employment income. Net income is gross income less business expenses, interest on loans, and depreciation computed on a straight-line basis.

1. In addition to net income, owners must count any salaries or other amounts distributed to family members from the business, and cash or assets withdrawn by family members, except when the withdrawal is a reimbursement of cash or assets invested in the business.
2. When calculating net income, owners must not deduct principal payments on loans, interest on loans for business expansion or capital improvements, other expenses for business expansion, or outlays for capital improvements.
3. If the net income from a business is negative, it must be counted as zero income. A negative amount must not be used to offset other family income.

I. **Periodic Social Security Payments**

Count the gross amount, before deductions for Medicare, etc., of periodic Social Security payments. Include payments received by adults on behalf of individuals under the age of 18 or by individuals under the age of 18 for their own support. *See Section J below regarding adjustments for overpayment of benefits and Section O for calculating the income for tenants in ICF/MR or ICF/DD projects and assisted living units in elderly projects.*

***Example:** Mary's gross social security benefit is \$700 per month. The owner calculates annual income by annualizing the gross monthly social security benefit amount.

$\$700 \text{ per month} \times 12 \text{ months} = \$8,400 \text{ gross annual income.}^*$

J. **Adjustments for Prior Overpayment of Benefits**

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.

Example – Adjustment for Prior Overpayment of Benefits

Lee Park's social security payment of \$250 per month is being reduced by \$25 per month for a period of six months to make up for a prior overpayment. Count his social security income as \$225 per month for the next six months and as \$250 per month for the remaining six months.

K. Public Assistance Income in As-Paid Localities

1. Special calculations of public assistance income are required for “as-paid” state, county, or local public assistance programs. An “as-paid” system is one:
 - a. In which the family receives an amount from a public agency specifically for shelter and utilities; and
 - b. In which the amount is adjusted based upon the actual amount the family pays for shelter and utilities.
2. The public assistance amount specifically designated for rent and utilities is called the “welfare rent.”
3. To determine annual income for public assistance recipients in “as-paid” localities, include the following:
 - a. The amount of the family's grant for other than shelter and utilities; and
 - b. The maximum amount the welfare department can pay for shelter and utilities for a family of that size (i.e., the welfare rent). This may be different from the amount the family is actually receiving.
4. Each as-paid locality works somewhat differently, and many are subject to court-ordered modifications to the basic policy. Owners should discuss how the rules are applied with the HUD Field Office.

Example – Welfare Income in “As Paid” Localities

At application, a family’s welfare grant is \$300, which includes \$125 for basic needs and \$175 for shelter and utilities (based upon where the family is now living). However, the maximum the welfare agency could allow for shelter and utilities for this size family is \$190.

Count the following as income:

\$125 Amount family receives for basic needs

\$190 Maximum for shelter and utilities

\$315 Monthly public assistance income

L. Periodic Payments from Long-Term Care Insurance, Pensions, Annuities, and Disability or Death Benefits

1. The full amount of periodic payments from annuities, insurance policies, retirement funds, pensions, and disability or death benefits is included in annual income. (See subparagraph O below for information on the withdrawal of cash or assets from an investment.) Payments such as Black Lung Sick Benefits, Veterans Disability, and Dependent Indemnity Compensation for the Widow of a Killed in Action Serviceman are examples of such periodic payments.
2. Withdrawals from retirement savings accounts such as Individual Retirement Accounts and 401K accounts that are not periodic payments do not fall in this category and are not counted in annual income (see paragraph 5.6.L.3).

Example – Withdrawals from IRAs or 401K Accounts

Isaac Freeman retired recently. He has an IRA account but is not receiving periodic payments from it because his pension is adequate for his routine expenses. However, he has withdrawn \$2,000 for a trip with his children. The withdrawal is not a periodic payment and is not counted as income.

3. 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 are an eligible medical expense – see paragraph 5-10 D.8.k.)
4. 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.

Example: Joan Carson is a retired Federal government employee receiving a retirement pension. She is also the recipient of Section 8 housing assistance and involved in a divorce proceeding. In settling the assets of the marriage between Mrs. Carson and her former husband, the court ordered that one half of her pension be paid directly to her former husband in the amount of \$20,000. The court provided OPM with clear, specific and express instructions acceptable for OPM to process the payment to Mrs. Carson's former husband. OPM authorized the payment of pension benefits to Mrs. Carson's former husband in the amount of \$20,000. The \$20,000 represents an asset disposed of as a result of a court decree. At the interim reexamination of her income, Mrs. Carson indicated a change in her income due to the court ordered payment of pension benefits to her former husband. The PHA requested that Mrs. Carson provide a copy of her statement from OPM evidencing the payment of pension benefits to her (her statement reflected the line item payment to her former husband due to the court order). That portion of the pension paid to her former husband no longer belongs to Mrs. Carson and is not counted as income.

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.)

5. 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 4, 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.

M. Income from Training Programs

1. Amounts received under HUD-funded training programs are excluded from annual income.
2. Incremental earnings and benefits received by any family member due to participation in qualifying state or local employment training programs are excluded. Income from training programs not affiliated with a local government, and income from the training of a family member resident to serve on the management staff, is also excluded.
 - a. Excluded income must be received under employment training programs with clearly defined goals and objectives and for a specific, limited time period. The initial enrollment must not exceed one year, although income earned during extensions for additional specific time periods may also be eligible for exclusion
 - b. Training income may be excluded only for the period during which the family member participates in the employment training program.
 - c. Exclusions include stipends, wages, transportation or child care payments, or reimbursements.
 - d. Income received as compensation for employment is excluded only if the employment is a component of a job training program.

Once training is completed, the employment income becomes income that is counted.

- e. Amounts received during the training period from sources that are unrelated to the job training program, such as welfare benefits, social security payments, or other employment, are not excluded.
2. Owners may ask to use project funds or funds from the Residual Receipts account to underwrite all or a portion of the cost of developing, maintaining, and managing a job training program for project residents if funds are available.
 - a. The Field Office will make the determination if the job training program may be approved, and if project funds are sufficient to fund the job training program and maintain the physical and financial integrity of the project. Job training programs may be either on-site at the project or off-site. For example, job training programs that have partnerships with local colleges, community based organizations, or local business, may have in-house job training programs designed for project residents.
 - b. Funds that an owner may choose to use to underwrite a job training program may include Section 8 funds, Community Development Block Grant funds, or housing authority funds. These funds may be used to cover the costs of various components of a job training program, including course materials, computer software, computer hardware, or personnel costs. Also, contractors and subcontractors, in connection with work performed under a Flexible Subsidy contract, may elect to hire project residents to perform certain skills required under the contract. If the employment of the project residents was pursuant to an apprenticeship program, this could constitute a training program using HUD funds, and income received by the tenants in the apprenticeship program will qualify as an exclusion from income.

N. Resident Services Stipends

Resident services stipends are generally modest amounts of money received by residents for performing services such as hall monitoring, fire patrol, lawn maintenance, and resident management.

1. If the resident stipend exceeds \$200 per month, owners must include the entire amount in annual income.
2. If the resident stipend is \$200 or less per month, owners must exclude the resident services stipend from annual income.

O. Income Received by a Resident of an Intermediate Care Facility for the Mentally Retarded or for the Developmentally Disabled (ICF/MR or ICF/DD) and Assisted Living Units in Elderly Projects

1. An intermediate care facility is a group home for mentally retarded or developmentally disabled individuals (ICF/MR or ICF/DD). The term “intermediate care facility” is one used by state mental health departments for group homes serving these residents.
2. Assisted living units are units in projects developed for elderly residents with project-based assistance that have been converted to assisted living units.
3. The local agency responsible for Medicaid provides funds directly to group home operators and assisted living providers for services.
4. Annual income at an ICF/MR, ICF/DD, or assisted living unit must include:
 - a. The SSI payment a tenant receives or the facility receives on behalf of the tenant; plus
 - b. All other income the tenant receives from sources other than SSI that are not excluded from income by HUD regulations (see Exhibit 5-1). Examples of other sources of income include wages, pensions, income from sheltered workshops, income from a trust, or other interest income.
 - c. The personal allowance of an individual residing in an ICF/MR or ICF/DD is not included in annual income. If the owner is unable to determine the actual amount of the personal allowance, use \$30.
5. Annual income does not include the enhanced benefit portion of the SSI that is provided to pay for services. In some instances, a resident’s SSI income may be reduced between annual recertifications if the resident’s earnings exceed a specified amount. If this happens, the resident may request an interim recertification.

P. Withdrawal of Cash or Assets from an Investment

The withdrawal of cash or assets from an investment received as periodic payments should be counted as income. Lump sum receipts from pension and retirement funds are counted as assets. If benefits are received through periodic payments, do not count any remaining amounts in the account as an asset. See Paragraph 5-7 for guidance on calculating income from an asset.

Q. Lump Sum Payments Counted as Income

1. Generally, lump sum amounts received by a family, such as inheritances, insurance settlements, or proceeds from sale of property are considered assets, not income.

2. When social security or SSI benefit income is paid in a lump sum as a result of deferred periodic payments, that amount is *excluded* from annual income.
3. *For Section 8 tenants only, any deferred Department of Veterans Affairs (VA) disability benefits that are received in a lump sum or in prospective monthly amounts are *excluded* from annual income.*
4. Settlement payments from claim disputes over welfare, unemployment, or similar benefits may be counted as assets, but lump sum payments caused by *delays in processing* periodic payments for unemployment or welfare assistance are included as income.

How lump sum payments for delayed start of benefits are counted depends upon the following:

- a. When the family reports the change;
- b. When an interim re-examination is conducted; and
- c. Whether the family's income increases or decreases as a result.

A lump sum payment resulting from delayed benefit income may be treated in either of the two ways illustrated in the example shown in Figure 5-3.

5. Lottery winnings paid in one payment are treated as assets. Lottery winnings *paid in periodic payments* must be counted as income.

Figure 5-3: Treatment of Delayed Benefit Payments Received in a Lump Sum

Family member loses his/her job on October 19 and applies for unemployment benefits. The family receives a lump sum payment of \$700 in December to cover the period from 10/20 to 12/5 and begins to receive \$100 a week effective 12/6.

Option A: The owner processes one interim re-examination immediately effective 11/1 and a second interim after unemployment benefits are known.

	<u>10/1</u>	<u>11/1</u>	<u>12/1</u>	<u>1/1</u>	<u>2/1</u>
Monthly gross income	800	*0	*0	492**	492**
Monthly allowances (three minors x 480 / 12 months)	120	-	-	120	120
Monthly adjusted income	680	0	0	372	372
Total tenant payment (TTP)	204	25	25	25***	112***

* The family's income is calculated at \$0/month beginning November 1, continuing until benefits actually begin and new income is calculated. TTP is set at the minimum rent.

** Family's actual income for 1/1 is \$100/week x 52 weeks = \$5,200 / 12 = \$433.
However, because the family's TTP was calculated at zero income for the months of November and December (the period eventually covered by the \$700 lump sum payment), the annual income to be used in calculating monthly gross income should be as follows:
\$100/week benefit x 52 weeks = \$5,200 + \$700 lump sum payment = \$5,900 annual gross income / 12 = \$492.

*** Increased rent does not start until 2/1 in order to give the family notice of rent increase.

Option B: The owner processes one interim re-examination after unemployment benefits are known.

	<u>10/1</u>	<u>11/1</u>	<u>12/1</u>	<u>1/1</u>	<u>2/1</u>
Monthly gross income	800	0/800*	0/800*	433*	433*
Monthly allowances (three minors x 480 / 12 Months)	120	120	120	120	120
Monthly adjusted income	680	0/680	0/680	313	313
Total tenant payment	204	204*	204*	94	94
Recalculated TTP	-	94***	94*	94	94
Rent credit (204 – 94=)	-	110	110	-	-

* Family's actual income for 11/1 and 12/1 is zero, but because the owner does not process an interim re-examination, the family's TTP continues to be calculated using \$800 as monthly gross income. Beginning 1/1, monthly gross income is known to be \$100/week, or \$433/month.

** The lump sum payment is taken into account by making the recertification retroactive to 11/1. Annual income is calculated as \$5,200 / 12 = \$433 monthly gross income.

*** TTP for November and December recalculated as \$433 monthly gross income and \$313 monthly adjusted income x .30 = 94 with credit or refund to family of \$110/month for each of these two months for difference between TTP paid of \$204 and recalculated TTP of \$94.

R. Exclusions from Income

1. Regulations for the multifamily subsidized housing programs covered by this handbook specifically exclude certain types of income from annual income. However, many of the items listed as exclusions from annual income under HUD requirements are items that the IRS includes as taxable income. Therefore, it is important for owners to focus specifically on the HUD program requirements regarding annual income.
2. Among the items that are excluded from annual income is the value of food provided through:
 - a. The Meals on Wheels program, food stamps, or other programs that provide food for the needy;
 - b. Groceries provided by persons not living in the household; and
 - c. 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).

Examples – Income Exclusions

- The Value of Food Provided through the Meals on Wheels Program or Other Programs Providing Food for the Needy. Jack Love receives a hot lunch each day during the week in the community room and an evening meal in his apartment. One meal is provided through the Meals on Wheels program. A local church provides the other. The value of the meals he receives is not counted as income.
- Groceries provided by persons not living in the household. Carrie Sue Colby's mother purchases and delivers groceries each week for Carrie Sue and her two year old. The value of these groceries is not counted as income despite the fact that these are a regular contribution or gift.
- Amounts Received Under WIC or the School Lunch Act. Lydia Jeffries' two children receive a free breakfast and reduced priced lunches at school every day through the Special Supplemental Food Program for Women, Infants and Children (WIC). The value of this food is not counted as income.

3. Some additional examples of income that are excluded from the calculation of annual income follow.

Examples – Income Exclusions

- Resident service stipends. Rich Fuller receives \$50 a month for distributing flyers for management. This amount is excluded from annual income.
- Deferred periodic payments of social security benefits. Germain Johnson received \$32,000 in deferred social security benefits following a lengthy eligibility dispute. This delayed payment of social security benefits is treated as an asset, not as income.
- Income from training programs. Jennifer Jones is participating in a qualified state-supported employment training program every afternoon to learn improved computer skills. Each morning, she continues her regular job as a typist. The \$250 a week she receives as a part-time typist is included in annual income. The \$150 a week she receives for participation in the training program is excluded in annual income.
- Earned Income Tax Credit refund payments. Mary Frances Jackson is eligible for an earned income tax credit. She receives payments from her employer each quarter because of the tax credit. These payments are excluded in annual income.

5-7 Calculating Income from Assets

Annual income includes amounts derived from assets to which family members have access.

A. What is Considered an Asset?

1. Assets are items of value that may be turned into cash. A savings account is a cash asset. The bank pays interest on the asset. The interest is the *income* from that asset.
2. Some tenants have assets that are not earning interest. A quantity of money under a mattress is an asset: it is a thing of value that could be used to the benefit of the tenant, but under the mattress it is not producing income.
3. Some belongings of value are not considered assets. Necessary personal property is not counted as an asset. Exhibit 5-2 summarizes the items that are considered assets and those that are not.

B. Determining Income from Assets

Note: For families receiving only BMIR assistance, it is not necessary to determine whether family assets exceed \$5,000. The rule for imputing income from assets does not apply to the BMIR program.

1. The calculation to determine the amount of income from assets to include in annual income considers both of the following:
 - a. The total cash value of the family's assets; and
 - b. The amount of income those assets are earning or could earn.
2. The rule for calculating income from assets differs depending on whether the total cash value of family assets is \$5,000 or less, or is more than \$5,000.

C. Determining the Total Cash Value of Family Assets

1. To comply with the rule for determining the amount of income from assets, it is necessary to first determine whether the total "cash value" of family assets exceeds \$5,000.
 - a. The "cash value" of an asset is the market value less reasonable expenses that would be incurred in selling or converting the asset to cash, such as the following:
 - (1) Penalties for premature withdrawal;
 - (2) Broker and legal fees; and
 - (3) Settlement costs for real estate transactions.

The cash value is the amount the family could actually receive in cash, if the family converted an asset to cash.

Example – Calculating the Cash Value of an Asset

A family has a certificate of deposit (CD) in the amount of \$5,000 paying interest at 4%. The penalty for early withdrawal is three months of interest.

$$\$5,000 \times 0.04 = \$200 \text{ in annual income}$$

$$\$200 / 12 \text{ months} = \$16.67 \text{ interest per month}$$

$$\$16.67 \times 3 \text{ months} = \$50.01$$

$$\$5,000 - \$50 = \$4,950 \text{ cash value of CD}$$

- b. It is essential to note that a family is not required to convert an asset to cash. Determining the cash value of the asset is done simply as a calculation by the owner because it is a required step when determining income from assets under program requirements.

D. Assets Owned Jointly

1. If assets are owned by more than one person, prorate the assets according to the percentage of ownership. If no percentage is specified or provided by a state or local law, prorate the assets evenly among all owners.
2. If an asset is not effectively owned by an individual, do not count it as an asset. An asset is not effectively owned when the asset is held in an individual's name, but (a) the asset and any income it earns accrue to the benefit of someone else who is not a member of the family, and (b) that other person is responsible for income taxes incurred on income generated by the assets.
3. Determining which individuals have ownership of an asset requires collecting as much information as is available and making the best judgment possible based on that information.

Example – Determining the Cash Value of an Asset

The “cash value” of an asset is the amount a family would receive if the family turned a noncash asset into cash.

The cash value is the market value—or the amount another person would pay to acquire the asset—less the cost to turn the asset into cash.

If a family owns real estate, it may be necessary to consider the family’s equity in the property as well as the expense to sell the property.

To determine the family’s equity, subtract amounts owed on the property from its market value:

$$\begin{array}{r} \text{Market value} \\ - \text{Mortgage amount owed} \\ \hline \text{Equity in the property} \end{array}$$

Calculate the cash value by subtracting the expense of selling the property:

$$\begin{array}{r} \text{Equity} \\ - \text{Expense of selling} \\ \hline \text{Cash Value} \end{array}$$

Juanita Player owns a rental house. The market value is \$100,000. She owes \$60,000. The cost to dispose of this house would be \$8,000. The owner would determine the cash value as follows:

Market Value	\$100,000
Mortgage amount	- <u>\$60,000</u>
	40,000
Cost of disposing of the asset (real estate commission, and other costs of sale)	- <u>\$8,000</u>
Cash Value	\$32,000

- a. In some instances, but not all, knowing whose social security number is connected with the asset may help in identifying ownership. Owners should be aware that there are many situations in which a social security number connected with an asset does not indicate ownership and other situations where there is ownership without connection to a social security number.
- b. Determining who has contributed to an asset or who is paying taxes on the asset may assist in identifying ownership.

Examples – Jointly Owned Assets

- Helen Wright is an assisted-housing tenant. She and her daughter, Elsie Duncan, have a joint savings account. Mother and daughter both contribute to the account. They have used the account for trips together and to cover emergency needs for either of them. Assume in this example that state law does not specify ownership. Even though either Helen Wright or Elsie Duncan could withdraw the entire asset for her own use, count Helen's ownership as 50% of the account.
- Jean Boucher's name is on her mother's savings account to ensure that she can access the funds for her mother's care. The account is not effectively owned by Jean and should not be counted as her asset.

E. Calculating Income from Assets When Assets Total \$5,000 or Less

If the total cash value of all the family's assets is \$5,000 or less, the actual income the family receives from assets is the amount that is included in annual income as income from assets.

F. Calculating Income from Assets When Assets Exceed \$5,000

1. When net family assets are more than \$5,000, annual income includes the greater of the following:
 - a. Actual income from assets; or
 - b. A percentage of the value of family assets based upon the current passbook savings rate as established by HUD. This is called *imputed* income from assets. The passbook rate is currently set at 2%.
2. To begin this calculation, first add the cash value of all assets. Multiply the total cash value of all assets by .02. The product is the "imputed income" from assets. Then, add the actual income from all assets. The greater of the imputed income from assets or the actual income from assets is included in the calculation of annual income.

**Example – Use Actual Income from Assets When
Total Net Family Assets are \$5,000 or Less**

Type of Asset	Cash Value	Actual Yearly Income
<i>Certificate of Deposit</i> \$1,000 withdrawal fee \$50 interest @ 4%	\$950	\$40
<i>Savings Account</i> \$500 interest @ 2.5%	\$500	\$13
<i>Stock</i> \$300 Not paying dividends	\$300	\$0
Total	\$1,750	\$53

The total cash value of the family's assets is \$1,750. Therefore, the amount that is added to annual income as income from assets is the actual income earned or \$53.

Example – Imputed Income from Assets

“Imputed” means “attributed” or “assigned.” Imputing income from assets is “assigning” an amount of income solely for the sake of the annual income calculation. The imputed income is not real income.

For example, money under a mattress is not earning income. If the money were put in a savings account it would earn interest. Imputed income from such an asset is the interest the money would earn if it were put in a savings account.

A family with cash under a mattress is not required to put the cash in a savings account; but when the owner is calculating income for a family with more than \$5,000 in assets, the owner must assign an amount that cash would earn if it were in a savings account.

**Example – Determining Income from Assets
When Net Family Assets Exceed \$5,000**

Type of Asset	Cash Value	Actual Yearly Income
<i>Checking Account</i> (non-interest bearing)	\$455	\$0
<i>Savings Account</i> (interest at 2.5%)	\$6,000	\$150
<i>Stocks</i> (not paying dividends this year)	\$3,000	\$0
Total	\$9,455	\$150

Total cash value of assets is greater than \$5,000. Therefore, it is necessary to compare the actual income from assets to the imputed income from assets.

The total cash value of assets (\$9,455) is multiplied by 2% to determine the imputed income from assets.

$$.02 \times \$9,455 = \$189$$

\$189 is greater than the actual income from assets (\$150).

In this case, therefore, the owner will add \$189 to the annual income calculation as income from assets.

G. Calculating Income from Assets - Specific Types of Assets

1. Trusts.

a. Explanation of trusts.

- (1) A trust is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries). A trust can contain cash or other liquid assets or real or personal property that could be turned into cash. Generally, the assets are invested for the benefit of the beneficiaries.
- (2) Trusts may be revocable or nonrevocable. A revocable trust is a trust that the creator of the trust may amend or end (revoke). When there is a revocable trust, the creator has access to the funds in the trust account. When the creator sets up a nonrevocable trust, the creator has no access to the funds in the account.
- (3) The beneficiary frequently will be unable to touch any of the trust funds until a specified date or event (e.g., the

beneficiary's 21st birthday or the grantor's death). In some instances, the beneficiary may receive the regular investment income from the trust but not be able to withdraw any of the principal.

- (4) The beneficiary and the grantor may be members of the same family. A parent or grandparent may have placed funds in trust to a child. If the trust is revocable, the funds may be accessible to the parent or grandparent but not to the child.

b. How to treat trusts.

- (1) The basis for determining how to treat trusts relies on information about who has access to either the principal in the account or the income from the account.
- (2) Revocable trusts. If any member of the tenant family has the right to withdraw the funds in the account, the trust is considered to be an asset and is treated as any other asset. The cash value of the trust (the amount the family member would receive if he or she withdrew all that could be withdrawn) is added to total net assets. The actual income received is added to actual income from assets.

Example – A Trust Accessible to Family Members

Assez Charaf lives alone. He has placed \$20,000 in trust to his grandson to be available to the grandson upon the death of Assez. The trust is revocable, that is, Assez has control of the principal and interest in the account and can amend the trust or remove the funds at any time. In calculating Assez's income, the owner will add the \$20,000 to Assez's net family assets and the actual income received on the trust to actual income from assets.

- (3) Nonrevocable trusts. If no family member has access to either the principal or income of the trust at the current time, the trust is not included in the calculation of income from assets or in annual income.

If only the income (and none of the principal) from the trust is currently available to a family member, the income is counted in annual income, but the trust is not included in the calculation of income from assets.

- (4) Nonrevocable trust as an asset disposed of for less than fair market value. If a tenant sets up a nonrevocable trust for the benefit of another person while residing in assisted

housing, the trust is considered an asset disposed of for less than fair market value (see subparagraph G.6 below).

- If the trust has been set up so income from the trust is regularly reinvested in the trust and is not paid back to the creator, the trust is calculated as any other asset disposed of for less than fair market value for two years and not taken into consideration thereafter.

Example – Nonrevocable Trust As an Asset Disposed of for Less Than Fair Market Value

Sarah Gordy placed \$100,000 in a nonrevocable trust for her grandson. Last year, the trust produced \$8,000, which was reinvested into the trust.

The trust is treated as an asset disposed of for less than fair market value for two years. (See paragraph 5.7 G.6.) No actual income from the trust is included in Sarah's annual income, but the value of the asset when it was given away, \$100,000, is included in net family assets for two years from the date the trust was established.

- Nonrevocable trust distributing income. When a tenant places an asset in a nonrevocable trust but continues to receive income from the trust, the income is added to annual income *and* the trust is counted as an asset disposed of for less than market value for two years. Following the two-year period, the owner will count only the actual income distributed from the trust to the tenant.

Example – Nonrevocable Trust Distributing Income to the Creator/Tenant

Reggie Bouchard has established a nonrevocable trust in the amount of \$35,000 that no one in the tenant family controls. Income from the trust is paid to Reggie. Last year, he received \$3,500.

The owner will count Reggie's actual anticipated income from the trust in next year's annual income.

Because the asset was disposed of for less than fair market value (see paragraph 5.7 G.6), the value of the asset given away, \$35,000, is counted as an asset disposed of for less than fair market value for two years.

- (5) Payment of principal from a trust. The beneficiary of a trust may receive funds from the trust in different ways. A beneficiary may receive the full value of a trust at one time. In that instance the funds would be considered a lump sum receipt and would be treated as an asset. A trust set up to provide support for a person with disabilities may pay only income from the trust on a periodic basis. Occasionally, however, a beneficiary may be given a portion of the trust principal on a periodic basis. When the principal is paid out on a periodic basis, those payments are considered regular income or gifts and are counted in annual income.

Example – Payment of Principal Amounts from a Trust

Jared Leland receives funds from a nonrevocable trust established by his parents for his support. Last year he received \$18,000 from the trust. The attorney managing the trust reported that \$3,500 of the funds distributed was interest income and \$14,500 was from principal. Jared receives a payment of \$1,500 each month (an amount that includes both principal and interest from the trust).

The owner will count the entire \$18,000 Jared received as annual income.

c. Special needs trusts.

A special needs trust is a trust that may be created under some state laws, often by family members for disabled persons who are not able to make financial decisions for themselves. Generally, the assets within the trust are not accessible to the beneficiary.

- (1) If the beneficiary does not have access to income from the trust, then it is not counted as part of income.
- (2) If income from the trust is paid to the beneficiary regularly, those payments are counted as income.

Example – Special Needs Trust

Daryl Rockland is a 55-year-old person with disabilities, living with his elderly parents. The parents have established a special-needs trust to provide income for their son after they are gone. The trust is not revocable; neither the parents nor the son currently have access to the principal or interest. In calculating the income of the Rocklands, the owner will disregard the trust.

2. Annuities.

a. Annuity facts and terms.

- (1) An annuity is a contract sold by an insurance company designed to provide payments, usually to a retired person, at specified intervals. Fixed annuities guarantee a certain payment amount, while variable annuities do not, but have the potential for greater returns.
 - A hybrid annuity (also called a combination annuity) combines the features of a fixed annuity and a variable annuity.
 - A deferred annuity is an annuity that delays income payments until the holder chooses to receive them. An immediate annuity is one that begins payments immediately upon purchase.
 - A life annuity continues to pay out as long as the owner is alive. A single-life annuity provides income benefits for only one person. A joint life annuity is issued on two individuals, and payments continue in whole or in part as long as either individual is alive.
- (2) Generally, a person who holds an annuity from which he or she is not yet receiving payments will also be earning income. In most instances, a fixed annuity will be earning interest at a specified fixed rate similar to interest earned by a CD. A variable annuity will earn (or lose) based on market fluctuations, as in a mutual fund.
- (3) Most annuities charge surrender or withdrawal fees. In addition, early withdrawal usually results in tax penalties.
- (4) Depending on the type of annuity and the current status of the annuity, the owner will need to ask different questions of the verification source, which will normally be the applicant or tenant's insurance broker.

b. Income after the holder begins receiving payments.

- (1) When verifying an annuity, owners should ask the verification source whether the holder of the annuity has the right to withdraw the balance of the annuity. For annuities without this right, the annuity is not treated as an asset.

- (2) Generally, when the holder has begun receiving annuity payments, the holder can no longer convert it to a lump sum of cash. In this situation, the holder will receive regular payments from the annuity that will be treated as regular income, and no calculations of income from assets will be made.

c. Calculations when an annuity is considered an asset.

- (1) When an applicant or tenant has the option of withdrawing the balance in an annuity, the annuity will be treated like any other asset. It will be necessary to determine the cash value of the annuity in addition to determining the actual income earned.
- (2) In most instances, an annuity from which payments have not yet been made is earning income on the balance in the annuity. A fixed annuity will earn income at a fixed rate in the same manner that a CD earns income. A variable annuity will earn (or lose) based on current market conditions, as with a mutual fund.
- (3) The owner will need to verify with the insurance agent or other appropriate source:
 - The right of the holder to withdraw the balance (even if penalties are involved).
 - The basis on which the annuity may be expected to grow during the coming year.
 - The surrender or early withdrawal penalty fee.
 - The tax rate and the tax penalty that would apply if the family withdrew the annuity.
- (4) The cash value will be the full value of the annuity, less the surrender (or withdrawal) penalty, and less any taxes and tax penalties that would be due.
- (5) The actual income is the balance in the annuity times the percentage (either fixed or variable) at which the annuity is expected to grow over the coming year. (This money will be reinvested into the annuity, but it is still considered actual income.)
- (6) The imputed income from the asset is calculated only after the cash value of all family assets has been determined.

Imputed income from assets is calculated on the total cash value of all family assets.

3. Lump sum receipts counted as assets.
 - a. Commonly, when a family receives a large amount of money, a lump sum payment, the family will put the money in a checking or savings account, or will purchase stocks or bonds or a CD. Owners must count lump sum payments received by a tenant as assets. Examples of lump sum payments include the following:
 - (1) Inheritances;
 - (2) Capital gains;
 - (3) Lottery winnings paid in one payment;
 - (4) Cash from the sale of assets;
 - (5) Insurance settlements (including health and accident insurance, workers compensation, and personal and property losses); and
 - (6) Any other amounts that are received in one-time lump sum payments.

Example – Calculating the Cash Value of an Annuity

Rodrigo Ramirez, site manager at Fernwood Forrest, has interviewed Barbara Barstow, an applicant who reports holding an annuity from which she will not receive payments for another 15 years when she turns 65. The applicant could not provide any more detail on the annuity but did report the name, address, and phone number of her insurance agent.

Rodrigo called the insurance agent and faxed a copy of the applicant's approval for release of information. As a result, Rodrigo learned that the annuity is a fixed annuity, with a current value of \$20,400 earning interest at an annual rate of 4.5%. The applicant could withdraw the current balance in the account but would pay a surrender penalty of \$3,000. If the annuity is withdrawn, then the applicant will owe \$1,200 in tax penalties.

In this example, the important information for calculating cash value is the current value, \$20,400; the surrender fee, \$3,000; and the tax penalties, \$1,200. If the applicant withdrew the cash from the annuity, after paying the surrender fee and tax penalty, then the amount of cash received would be \$16,200.

The cash value, \$16,200, is recorded as an asset.

Rodrigo will also calculate the actual anticipated income on this asset: $\$20,400 \times .045 = \918 .

- b. A lump sum payment is counted as an asset only as long as the family continues to possess it. If the family uses the money for something that is not an asset—a car or a vacation or education—the lump sum must not be counted.
- c. It is possible that a lump sum or an asset purchased with a lump sum payment may result in enough income to require the family to report the increased income before the next regularly scheduled annual recertification. But this requirement to report an increase in income before the next annual recertification would not apply if the income from the asset was not measurable by the tenant (e.g., gems, stamp collection).

Examples – Lump Sum Additions to Family Assets (One-Time Payment)

- JoAnne Wettig won \$500 in the lottery and received it in one payment. Do not count the \$500 as income. At JoAnne's next annual recertification, she will report all of her assets.
- Mia LaRue, a tenant in a Section 8 property, won \$75,000 in one payment in the lottery. She buys a car with some of the money, and puts the remaining amount of \$24,000 in the bank. Mia receives her first bank statement and notices that the income on this asset is \$205 per month. She must report this increase in income because the family has experienced a cumulative increase in income of more than \$200 per month. (See paragraph 7-10 A.4 on rules for reporting interim increases in income.) The owner must perform an interim recertification and count the greater of the actual or imputed income on this asset (since the net family assets are greater than \$5,000).

4. Balances held in retirement accounts.
 - a. Balances held in retirement accounts are counted as assets if the money is accessible to the family member. For individuals still employed, accessible amounts are counted even if withdrawal would result in a penalty. However, amounts that would be accessible only if the person retired are not counted.
 - b. IRA, Keogh, and similar retirement savings accounts are counted as assets, even though withdrawal would result in a penalty, *unless benefits are being received through periodic payments.*
 - c. Include contributions to company retirement/pension funds:
 - (1) While an individual is employed, count only amounts the family can withdraw without retiring or terminating employment.

- (2) After retiring or terminating employment, count as an asset any amount the employee elects to receive as a lump sum.
- d. Include in *annual income* any retirement benefits received through periodic payments. *Do not count any remaining amounts in the account as an asset.*

Examples – Balances Held in an IRA or 401K Retirement Account

- Jed Dozier’s 401K account balance is \$35,000. He is able to terminate his participation in the retirement plan without quitting his job, but if he did so he would lose a part of his employer’s contribution and would pay a penalty fee. The total cash he could withdraw, \$18,000, is the amount that is counted as an asset.

5. Federal Government/Uniformed Services Pensions

In instances where the applicant/tenant is a retired Federal Government/Uniformed Services employee receiving a pension that is determined by a state court in a divorce, annulment of marriage, or legal separation proceeding to be a marital asset and the court provides OPM with the appropriate instructions to authorize OPM to provide payment of a portion of the retiree’s pension to a former spouse, that portion to be paid directly to the former spouse is not counted as income for the applicant/tenant. However, where the tenant/applicant is the former spouse of a retired Federal Government/Uniformed Services employee, any amounts received pursuant to a court ordered settlement in connection with a divorce, annulment of marriage, or legal separation are reflected on a Form-1099 and is counted as income for the applicant/tenant. (See Paragraph 5-6.K.4 for more information on Federal Government/Uniformed Services pension funds paid to a former spouse.)

6. Other state, local government, social security or private pensions.

Other state, local government, social security or private pensions where pensions are reduced due to a court ordered settlement in connection with a divorce, annulment of marriage, or legal separation and paid directly to the former spouse are not counted as income for the applicant/tenant and should be handled in the same manner as 5, above.

7. Mortgage or deed of trust.

- a. Occasionally, when an individual sells a piece of real estate, the seller may loan money to the purchaser through a mortgage or deed of trust. This may be referred to as a “contract sale.”

- b. A mortgage or deed of trust held by a family member is included as an asset. Payments on this type of asset are often received as one combined payment that includes interest and principal. The value of the asset is the unpaid principal as of the effective date of the certification. Each year this balance will decline as more principal is paid off. The interest portion of the payment is counted as actual income from an asset.
8. Assets disposed of for less than fair market value. Applicants and tenants must declare whether an asset has been disposed of for less than fair market value at each certification and recertification. Owners must count assets disposed of for less than fair market value during the two years preceding certification or recertification. The amount counted as an asset is the difference between the cash value and the amount actually received. (This provision does not apply to families receiving only BMIR assistance.)
- a. Any asset that is disposed of for less than its full value is counted, including cash gifts as well as property. To determine the amount that has been given away, owners must compare the cash value of the asset to any amount received in compensation.
- b. However, the rule applies only when the fair market value of all assets given away during the past two years exceeds the gross amount received by more than \$1,000.

Examples – Assets of More or Less Than \$1,000 Disposed of for Less Than Fair Market Value

- During the past two years, Alexis Turner donated \$300 to the local food bank, \$150 to a camp program, and \$200 to her church. The total amount she disposed of for less than fair market value is \$650. Since the total is less than \$1,000, the donations are not treated as assets disposed of for less than fair market value.
- Jackson Jones gave each of his three children \$500. Because the total exceeds \$1,000, the gifts are treated as assets disposed of for less than fair market value.

- c. When the two-year period expires, the income assigned to the disposed asset also expires. If the two-year period ends in the middle of a recertification year, the tenant may request an interim recertification to remove the disposed asset(s). However, if the owner elects to only include the income for a partial remaining year as shown in the example below, an interim recertification should not be conducted.

**Example – Asset Disposed of
for Less Than Fair Market Value**

Margot Lundberg's recertification will be effective January 1. On that date, it will be 18 months since she sold her house to her daughter for \$60,000 less than its value. The owner will count income on the \$60,000 for only six months. (After six months, the two-year limit on assets disposed of for less than fair market value will have expired.)

- d. Assets disposed of for less than fair market value as a result of foreclosure, bankruptcy, divorces, or separation, are *not* counted.
- e. Assets placed in nonrevocable trusts are considered as assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.
- f. Applicants and tenants must sign a self-verification form at their initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or certifying that no assets have been disposed of for less than fair market value.
- g. Owners need to verify the tenant self certification only if the information does not appear to agree with other information reported by the tenant/applicant.

Examples – Asset Disposed of for Less Than Market Value

- (1) An applicant “sold” her home to her daughter for \$10,000. The home was valued at \$89,000 and had no loans secured against it. Broker fees and settlement costs are estimated at \$1,800.

\$89,000	Market value
<u>- 1,800</u>	Fees
\$87,200	Cash value
<u>- 10,000</u>	Sales price to daughter
\$77,200	Asset disposed of for less than fair market value

In this example, the asset disposed of for less than fair market value is \$77,200. That amount is counted as the resident’s asset for two years from the date the sale took place.

(The \$10,000 received from the daughter may currently be in a savings account or other asset or may have been spent. The \$10,000 will be counted as an asset if the applicant has not spent the money.)

- (2) A resident contributed \$10,000 to her grandson’s college tuition and gave her two granddaughters \$4,000 each to save for college.

\$10,000	College tuition gift
<u>+ 8,000</u>	Gift to granddaughters
\$18,000	Asset disposed of for less than fair market value

The \$18,000 disposed of for less than fair market value is counted as the tenant’s asset for two years from the date each asset was given away.

Section 2: Determining Adjusted Income

Section 2 does not apply to families applying for or occupying 221(d)(3) BMIR units without additional subsidy.

5-8 Key Regulations

This paragraph identifies the key regulatory citation pertaining to Section 2: Determining Adjusted Income. The citation and its topic are listed below.

- 24 CFR 5.611 Adjusted Income

Chapter 5 Exhibits

- 5-1. Income Inclusions and Exclusions
http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_35699.pdf
- 5-2. Assets
http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_35701.pdf
- 5-3. Examples of Medical Expenses That Are Deductible and Nondeductible
http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_35703.pdf
- 5-4. Sample Certification for Qualified Long-Term Care Insurance Expenses
<http://portal.hud.gov/hudportal/documents/huddoc?id=90101.pdf>
- 5-5. Form HUD-9887, *Notice and Consent for the Release of Information to HUD and to a PHA*
<http://portal.hud.gov/hudportal/documents/huddoc?id=9887.pdf>
- 5-6. Form HUD-9887-A, *Applicant's/Tenant's Consent to the Release of Information – Verification by Owners of Information Supplied by Individuals Who Apply for Housing Assistance*

See 5-5 above.
- 5-7. HUD Fact Sheet – Verification of Information Provided by Applicants and Tenants of Assisted Housing

See 5-5 above.
- 5-8. Tenant Rent Formulas

http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_35705.pdf

Exhibit 5-1: Income Inclusions and Exclusions**24 CFR 5.609(b) and (c)**

Examples included in parentheses have been added to the regulatory language for clarification.

INCOME INCLUSIONS

- (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 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. 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 (e.g., Black Lung Sick benefits, Veterans Disability, Dependent Indemnity Compensation, payments to the widow of a serviceman killed in action). See paragraph (13) under Income Exclusions for an exception to this paragraph;**
- (5) Payments in lieu of earnings, such as unemployment, disability compensation, worker's compensation, and severance pay, except as provided in paragraph (3) under Income Exclusions;
- (6) Welfare Assistance.
 - (a) Welfare assistance received by the family.
 - (b) 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:

- (c) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
- (d) 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; and
- (8) All regular pay, special pay, and allowances of a member of the Armed Forces, except as provided in paragraph (7) under 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: This paragraph also does not apply to a student who is living with his/her parents who are applying for or receiving Section 8 assistance.)

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);
- (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) under 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;
- (5) Income of a live-in aide, as defined in 24 CFR 5.403;
- (6) The full amount of student financial assistance paid directly to the student or to the educational institution (see Income Inclusions (9), above, for students receiving Section 8 assistance);
- (7) The special pay to a family member serving in the Armed Forces who is exposed to hostile fire (e.g., in the past, special pay included Operation Desert Storm);
- (8) (a) Amounts received under training programs funded by HUD (e.g., training received under Section 3);

- (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 that 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 owner, on a part-time basis, that enhances the quality of life in the project. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident-initiative coordination. 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 a resident management staff person. 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. (Examples include payments by the German and Japanese governments for atrocities committed during the Nazi era);
 - (11) Earnings in excess of \$480 for each full-time student 18 years or older (excluding the head of household and spouse);
 - (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 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 housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary.

The following is a list of income sources that qualify for that exclusion:

- (a) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017 [b]);
- (b) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058) (employment through AmeriCorps, Volunteers in Service to America [VISTA], Retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, senior companions);
- (c) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626[c]);
- (d) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
- (e) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624[f]);
- (f) Payments received under programs funded in whole or in part under the Job Training Partnership Act (29 U.S.C. 1552[b]); (effective July 1, 2000, references to Job Training Partnership Act shall be deemed to refer to the corresponding provision of the Workforce Investment Act of 1998 [29 U.S.C. 2931], e.g., employment and training programs for Native Americans and migrant and seasonal farm workers, Job Corps, veterans employment programs, state job training programs, career intern programs, Americorps);
- (g) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04);
- (h) The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court and the interests of individual Indians in trust or restricted lands, including the first \$2,000 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);
- (i) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);
- (j) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056[f]), e.g., Green Thumb, Senior Aides, Older American Community Service Employment Program;
- (k) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent*-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);
- (l) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);
- (m) 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);
- (n) Earned income tax credit (EITC) refund payments received on or after January 1, 1991, including advanced earned income credit payments (26 U.S.C. 32[j]);
- (o) 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);
- (p) Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637[d]);

- (q) Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran (38 U.S.C. 1805);
- (r) 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); and
- (s) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

Exhibit 5-2: Assets

NOTE: There is no asset limitation for participation in HUD assisted-housing programs. However, the definition of annual income includes net income from family assets.

A. Net Family Assets include the following:

1. Cash held in savings and checking accounts, safe deposit boxes, homes, etc. For savings accounts, use the current balance. For checking accounts, use the average balance for the last six months. Assets held in foreign countries are considered assets.
2. Revocable trusts. Include the cash value of any revocable trust available to the family. See discussion of trusts in paragraph 5-7 G.1.
3. Equity in rental property or other capital investments. Include the current fair market value less (a) any unpaid balance on any loans secured by the property and (b) reasonable costs that would be incurred in selling the asset (e.g., penalties, broker fees, etc.).

NOTE: If the person's main business is real estate, then count any income as business income under paragraph 5-6 G of the chapter. Do not count it both as an asset and business income.

4. Stocks, bonds, Treasury bills, certificates of deposit, mutual funds, and money market accounts. Interest or dividends earned are counted as income from assets even when the earnings are reinvested. The value of stocks and other assets vary from one day to another. The value of the asset may go up or down the day before or after rent is calculated and multiple times during the year thereafter. The owner may assess the value of these assets at any time after the authorization for the release of information has been received. The tenant may request an interim recertification at any time thereafter that a decrease in stock value may result in a decrease in rent.
5. Individual retirement, 401K, and Keogh accounts. These are included when the holder has access to the funds, even though a penalty may be assessed. If the individual is making occasional withdrawals from the account, determine the amount of the asset by using the average balance for the previous six months. (Do not count withdrawals as income.)

Example – Withdrawals from a Keogh Account

Ly Pham has a Keogh account valued at \$30,000. When she turns 70 years old, she begins drawing \$2,000 a year. Continue to count the account as an asset. Use the guidance in paragraph 5-7 to determine the cash value and imputed income from the asset. Do not count the \$2,000 she withdraws as income.

6. Retirement and pension funds.

- a. While the person is employed. Include only amounts the family can withdraw without retiring or terminating employment. Count the whole amount less any penalties or transaction costs. Follow paragraph 5-7 G.4 of the chapter on determining the value of assets.
- b. At retirement, termination of employment, or withdrawal. Periodic receipts from pension and retirement funds are counted as income. Lump-sum receipts from pension and retirement funds are counted as assets. Count the amount as an asset or as income, as provided below.
- (1) If benefits will be received in a lump sum, include the lump-sum receipt in net family assets.
 - (2) If benefits will be received through periodic payments, include the benefits in annual income. Do not count any remaining amounts in the account as an asset.
 - (3) If the individual initially receives a lump-sum benefit followed by periodic payments, count the lump-sum benefit as an asset as provided in the example below and treat the periodic payment as income. In subsequent years, count only the periodic payment as income. Do not count the remaining amount as an asset.

NOTE: This paragraph and the example below assume that the lump-sum receipt is a one-time receipt and that it does not represent delayed periodic payments. However, in situations in which a lump-sum payment does represent delayed periodic payments, then the amount would be considered as income and not an asset.

Example – Retirement Benefits as Lump-Sum and Periodic Payments

Upon retirement, Eleanor Reilly received a lump-sum payment of \$15,000. She will also receive periodic pension payments of \$350 a month.

The lump-sum amount of \$15,000 is generally treated as an asset. In this instance, however, Eleanor spent \$5,000 of the lump sum on a trip following her retirement. The remaining \$10,000 she placed in her mutual fund with other savings. The entire mutual fund will be counted as an asset.

The owner has verified that Eleanor is now not able to withdraw the balance from her pension. Therefore, the owner will count the \$350 monthly pension payment as annual income and will not list the pension account as an asset.

7. Cash value of life insurance policies available to the individual before death (e.g., the surrender value of a whole life policy or a universal life policy). It would not include a value for term insurance, which has no cash value to the individual before death.
8. Personal property held as an investment. Include gems, jewelry, coin collections, or antique cars held as an investment. Personal jewelry is NOT considered an asset.
9. Lump-sum receipts or one-time receipts. (See paragraph 5-6 **P** for additional information on what is counted as a lump-sum receipt and how to treat lump-sum receipts.) These include inheritances, capital gains, one-time lottery winnings, victim's restitution, settlements on insurance claims (including health and accident insurance, worker's compensation, and personal or property losses), and any other amounts that are not intended as periodic payments.
10. A mortgage or deed of trust held by an applicant.
 - a. Payments on this type of asset are often received as one combined payment of principal and interest with the interest portion counted as income from the asset.
 - b. This combined figure needs to be separated into the principal and interest portions of the payment. (This can be done by referring to an amortization schedule that relates to the specific term and interest rate of the mortgage.)
 - c. To count the actual income for this asset, use the interest portion due, based on the amortization schedule, for the 12-month period following the certification.
 - d. To count the imputed income for this asset, determine the asset value ****as of the effective date of the certification****. Since this amount will continually be reduced by the principal portion paid during the previous year, the owner will have to determine this amount at each annual recertification. See the following example:

Example – Deed of Trust and Imputed Income

Computation of imputed income:

An elderly tenant sells her home and holds the mortgage for the buyer. The cash value of the mortgage is \$60,000. The combined payment of principal and interest expected to be received for the upcoming year is \$5,000. The amortization schedule breaks that payment into \$2,000 in principal and \$3,000 in interest. In completing the asset income calculation, the cash value of the asset is \$60,000, and the projected annual income from that asset is \$3,000. ****The imputed income would be calculated by multiplying the cash value of \$60,000 by the 2% imputed passbook rate.**** Each subsequent year, the cash value of the asset should be reduced by the principal portion paid. In this example, it would be reduced to \$58,000 in the following year (\$60,000 – \$2,000 principal payment = \$58,000). ****When calculating the imputed income for the following year, the owner would multiply the cash value of \$58,000 by the 2% passbook savings rate.****

Regulatory References

(These references are current as of the date of publication. Readers should refer to the latest edition of the Code of Federal Regulations.)

24 CFR part 5.603 defines net family assets as follows:

Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and the equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded. . . . In determining net family assets, owners shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or recertification, as applicable, in excess of the consideration received therefor. 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 important consideration not measurable in dollar terms.

B. Net family assets **DO NOT** include the following:

IMPORTANT: The owner does not compute income from any assets in this paragraph.

1. Personal property (clothing, furniture, cars, wedding ring, other jewelry that is not held as an investment, vehicles specially equipped for persons with disabilities).
2. Interests in Indian trust land.
3. Term life insurance policies (i.e., where there is no cash value).
4. Equity in the cooperative unit in which the family lives.
5. Assets that are part of an active business. "Business" does NOT include rental of properties that are held as investments unless such properties are the applicant's or tenant's main occupation.

Example – Assets that are Part of an Active Business

- Laura and Lester Hines own a copier and courier service. None of the equipment that they use in their business is counted as an asset (e.g., the copiers, the FAX machines, the bicycles).
- Alice Washington rents out the home that she and her husband lived in for 42 years. This home is not an active business asset. Therefore, it is considered an asset and the owner must determine the annual income that Alice receives from it.

6. Assets that are NOT effectively owned by the applicant. Assets are not effectively owned when they are held in an individual's name, but (a) the assets and any income they earn accrue to the benefit of someone else who is not a member of the family, and (b) that other person is responsible for income taxes incurred on income generated by the assets.

NOTE: Nonrevocable trusts (i.e., irrevocable trusts) are not covered by this paragraph. See information on nonrevocable trusts in paragraph 5-7 G.1.

**Example – Assets not Effectively
Owned by the Applicant**

Net family assets do not include assets held pursuant to a power of attorney because one party is not competent to manage the assets, or assets held in a joint account solely to facilitate access to assets in the event of an emergency.

Example: Alexander Cumbow and his daughter, Emily Bornscheuer, have a bank account with both names on the account. Emily's name is on that account for the convenience of her father in case an emergency arises that would result in Emily handling payments for her father. Emily has not contributed to this asset, does not receive interest income from it, nor does she pay taxes on the interest earned. Therefore, Emily does not own this account. If Emily applies for assisted housing, the owner should not count this account as her asset. This asset belongs to Alexander and would be counted entirely as the father's asset should he apply for assisted housing.

7. Assets that are not accessible to the applicant and provide no income to the applicant. Nonrevocable trusts are not covered under this paragraph. See information on nonrevocable trusts in paragraph 5-7 G.1.

Example

A battered spouse owns a house with her husband. Because of the domestic situation, she receives no income from the asset and cannot convert the asset to cash.