

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4669-N-01]

### Federally Mandated Exclusions From Income

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD's regulations provide that HUD will periodically publish a Federal Register Notice listing the amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits. This Notice updates the list of exclusions last published on August 3, 1993.

**DATES:**

*Effective Date for payments by the Indian Claims Commission: October 10, 1978.*

*Effective Date for allowances, earnings and payments to AmeriCorps participants: October 1, 1993.*

*Effective Date for the first \$2000 of income received by individual Indians derived from interests in trust or restricted lands: January 1, 1994.*

*Effective Date for spina bifida payments: October 1, 1997.*

*Effective Date for victim crime compensation under the Victims of Crime Act: October 1, 1999.*

*Effective Date for payments received under programs funded in whole or in part under the Workforce Investment Act: August 7, 1998.*

**FOR FURTHER INFORMATION CONTACT:** For the Rent Supplement (section 215), section 236, and section 8 programs administered under 24 CFR parts 880, 881, and 883 through 886: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6138, Washington, DC 20410; telephone (202) 708-3000.

For the Section 8 project-based programs administered under 24 CFR part 882 (Rental Certificates, Moderate Rehabilitation) and under part 887 (Rental Vouchers), and the Public Housing Programs: Patricia Arnaudo, Senior Program Manager, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4224, Washington, DC 20410, telephone: (202) 708-0744, or the Public and Indian Housing Resource Center at 1-800-955-2232. (With the exception of the telephone number for the PIH Resource Center, these are not toll-free numbers.) Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Information Relay Service at 1-800-877-8339.

**PLEASE NOTE:** Any member of the public who becomes aware of any other Federal statute that requires any other benefit to be excluded from consideration as income in these programs should submit information about the statute and the benefit program to one of the persons listed as contacts above or to the Rules

Docket Clerk, room 10276. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

## **SUPPLEMENTARY INFORMATION:**

### **This Notice**

HUD's regulation at 24 CFR 5.609(c)(17) provides that HUD will periodically publish a Federal Register Notice listing the amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits. This Notice updates the list of exclusions last published on August 3, 1993 (58 FR 41287).

Under several HUD programs (Rent Supplement under part 215; Mortgage Insurance and Interest Reduction Payment for Rental Projects under part 236; section 8 Housing Assistance programs; the Public Housing programs), the definition of income does not include amounts of other benefits specifically exempted by the Federal law. This notice reports that the following are not to be considered as income for purposes of the programs mentioned above: (1) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation; (2) allowances, earnings and payments to individuals participating in AmeriCorps; (3) the first \$2,000 of income received by individual Indians derived from interests in trusts or restricted lands; (4) 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; (5) any amount of crime victim compensation that the applicant (under the Victims of Crime Act) receives 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; and (6) payments received under programs funded in whole or in part under the Workforce Investment Act of 1998.

### **Background**

Under certain HUD subsidized housing programs, annual income is a factor in determining eligibility and level of benefits. Annual income is broadly defined as the anticipated total income from all sources received by every family member. Traditionally, HUD excludes certain types of benefits from applicants' and participants' annual income. In addition, under 24 CFR 5.609(c)(17), the definition of annual income excludes amounts specifically excluded by any other Federal statute from consideration for purposes of determining eligibility for or level of benefits to be received under the HUD programs in question. HUD programs other than those specifically listed in this notice may be affected by changes in the definition of annual income. This is because some programs, for example, the sections 202 and 811 Capital Advance Programs, reference 24 CFR 5.609 for their definition of income.

Public Law 95-433, approved October 10, 1978, excludes payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation. The law provides:

Any part of any judgment funds referred to in the first section of this Act 25 U.S.C. 609c-1 that may be distributed per capita to, or held in trust for the benefit of, the members of a tribe, including minor's shares shall not be subject to Federal or State income tax, and the per capita payment shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act, or any other Federal or federally assisted program.

The effective date of this provision is October 10, 1978. This exclusion is added to the list as paragraph (xv).

Section 177 of the National and Community Service Act of 1990, as amended by the National and Community Trust Act of 1993 provides:

Allowances, earnings, and payments to individuals participating in programs that receive assistance under this subchapter [42 U.S.C. 12511 et seq.] shall not be considered to be income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or federally assisted program based on need, other than as provided under the Social Security Act (42 U.S.C. 301 et seq.).

The effective date of this provision is October 1, 1993. This provision, which excludes amounts paid to AmeriCorps participants, is added to the list as paragraph (xvi).

Paragraph (viii) is revised to clarify that the interest and investment income, up to \$2000, accrued on funds held in trust or restricted land shall not be considered as income and it adds a new provision. Section 13736 of the Budget Reconciliation Act of 1993 (Pub. L. 103-66) (25 U.S.C. 1408), approved August 10, 1993 provides that:

[I]nterest of individual Indians in trust or restricted lands shall not be considered a resource, and up to \$2000 per year of income received by individual Indians that is derived from such interests shall not be considered income, in determining eligibility for assistance under the Social Security Act (42 U.S.C. 301 et seq.) or any other Federal or federally assisted program.

The effective date of this provision is January 1, 1994. This exclusion is added to the list as part of paragraph (viii).

Section 1805 of the VA, HUD Appropriations Act of 1997 (Pub. L. 104-204; 38 U.S.C. 1805), approved October 1, 1997, provides:

Notwithstanding any other provision of law, the allowance paid to a child under this section not be considered income or resources in determining eligibility for or the amount of benefits under any Federal or federally assisted program. 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 is excluded from income.

The effective date of this provision is October 1, 1997. This exclusion is added to the list as paragraph (xvii).

Section 10602(c) of the Victims of Crime Act (42 U.S.C. 10602) provides:

Notwithstanding any other law, for the purpose of any maximum allowed income eligibility requirement in any Federal, State, or local government program using Federal funds that provides medical or other assistance (or payment or reimbursement of the cost of such assistance) that becomes necessary to an applicant for such assistance in full or in part because of the commission of a crime against the applicant, as determined by the Director, any amount of crime victim compensation that the applicant receives through a crime victim compensation program under this section shall not be included in the income of the applicant until the total amount of assistance that the applicant receives from all such programs is sufficient to fully compensate the applicant for losses suffered as a result of the crime.

The effective date of this provision is October 1, 1999. This exclusion is added to the list as paragraph (xviii).

Section 181 of the Workforce Investment Act of 1998 (Pub. L. 105-220), approved August 7, 1998, provides that:

Allowances, earnings and payments to individuals participating in programs under this title shall not be considered as income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or federally assisted program based on need, other than as provided under the Social Security Act (42 U.S.C. 301 et seq.). The effective date of this provision is August 7, 1998.

This exclusion is added to the list as paragraph (xix).

### **Updated List of Federally Mandated Exclusions From Income**

The following updated list of federally mandated exclusions supersedes that notice published on August 3, 1993. The following list of program benefits is the comprehensive list of benefits that currently qualify for the income exclusion stated in 24 CFR 5.609(c)(17):

- (i) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b));
- (ii) Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);
- (iii) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
- (iv) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);
- (v) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));
- (vi) 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);
- (vii) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04);
- (viii) The first \$2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2000 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);
- (ix) Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including awards under Federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);
- (x) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(f));
- (xi) 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.);
- (xii) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);

(xiii) 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);

(xiv) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. 32(j));

(xv) 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);

(xvi) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

(xvii) 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);

(xviii) 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

(xix) Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

Dated: April 12, 2001.

Mel Martinez,  
Secretary.

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