

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

Office of the Secretary

[Docket No. N-83-3498; FR-3161-N-01]

**Federally Mandated Exclusions From
Income**

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

SUMMARY: 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; and the Public and Indian Housing programs), the definition of income does not include amounts of other benefits specifically exempted by Federal law. Periodically, HUD announces the list of benefits so excluded. This notice reports that, (1) earned income tax credit refunds; (2) student financial assistance under title IV of the Higher Education Act of 1965; and (3) 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 are not to be considered as income for purposes of the programs mentioned above.

DATES: *Effective Date for Earned Income Tax Credit:* January 1, 1991.

Effective Date for Student Financial Assistance: October 1, 1992.

Effective Date for Child Care and Development Block Grant Assistance: November 4, 1992.

FOR FURTHER INFORMATION CONTACT: For Rent Supplement (section 215), section 236, and section 8 programs administered under 24 CFR parts 880, 881, and 883 through 886: James J. Tahash, Director, Planning and

Procedures Division, Office of Multifamily Housing Management, room 6182, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-3944. A telecommunications device for hearing impaired persons (TDD) is available at (202) 708-4594. (These are not toll-free telephone numbers.)

For section 8 programs administered under 24 CFR part 882 (Rental Certificates, Moderate Rehabilitation) and under part 887 (Rental Vouchers), and for Public Housing programs; Edward Whipple, Director, Occupancy Division, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC, 20410, telephone: (202) 708-0744, or TDD: (202) 708-0850. (These are not toll-free telephone numbers.)

For Indian Housing programs: Dominic Nessi, Director, Office of Indian Housing, room 4140, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC, 20410, telephone: (202) 708-1015, TDD: (202) 708-0850. (These are not toll-free telephone numbers.)

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 contact or to the Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: 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 215.21(c)(11), 236.3(c)(11), 813.106(c)(11), 905.102, and 913.106(c)(11), 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 either part

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813 or 913 for their definition of come.

Section 11111(b) (25 U.S.C. 32(j)) of the Omnibus Budget Reconciliation Act of 1990 (1990 OBR Act) (Pub. L. 101-508, approved November 5, 1990) excludes, for taxable years beginning after December 31, 1990, the earned income tax credit (EITC) refund from being considered as income for purposes of HUD's assisted housing programs. The earned income tax credit refund is a payment from the Internal Revenue Service to low income workers with children. Eligible workers must apply for this credit. The refund may be received over the year as a regular addition to a worker's pay, or as a single sum after filing a tax return, at the option of the worker. Under either option, no EITC refund payment received on or after January 1, 1991 is considered as income for the Department's assisted housing programs. This exclusion is added as paragraph (xiv) to the list.

Because HUD regulations promulgated before the 1990 OBR Act specifically include in annual income any earned income tax credit to the extent it exceeds income tax liability, they are being amended, in a separate rulemaking document, to remove this requirement.

Section 471 of the Higher Education Act Amendments of 1992 (HEAA 1992) (Pub. L. 102-325, approved July 23, 1992) amended section 479B of the Higher Education Act of 1965 to provide:

Notwithstanding any other provision of law, student financial assistance received under this title, or under Bureau of Indian Affairs student assistance programs, shall not be taken into account in determining the need or eligibility of any person for benefits or assistance, or the amount of such benefits or assistance, under any Federal, State, or local program funded in whole or in part with Federal funds.

Section 2 of HEAA 1992 establishes an effective date for its amendments of October 1, 1992, "Except as otherwise provided in this Act * * *". Although section 480(b), entitled, "Effective Date For Amendments To Part F" (and section 471 appears in part F), states an effective date of July 1, 1993, this effective date applies only "with respect to determinations of need under such part F * * *". The effective date, thus, for this exclusion from income is October 1, 1992.

The Department had, under paragraph "x" in the previous published notice of federally mandated exclusions from income, excluded, "Amounts of scholarships funded under title IV of the Higher Education Act of 1965, including

swards under the Federal work-study program or under the Bureau of Indian Affairs student Assistant programs, that are made available to cover the cost of tuition, fees, books, equipment, materials, supplies, transportation, and miscellaneous personal expenses of a student at an educational institution (20 U.S.C. 1087uu)". Paragraph (ix) is being amended in this notice to reflect the current status of the law, which places no limits on the types of scholarship costs under title IV eligible for exclusion.

Section 8(b) (42 U.S.C. 9858g) of the Juvenile Justice and Delinquency Prevention Amendments Act of 1992 (Pub. L. 102-586, approved November 4, 1992) provides that 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 shall not be treated as income for purposes of any other Federal or Federally-assisted program that bases eligibility, or the amount of benefits, on need. The effective date of this provision is the effective date of the statute, November 4, 1992. This exclusion is added to the list as paragraph (xiii).

The Department published its last updated list of federally mandated exclusions from income on July 23, 1990 (55 FR 29905). This notice supersedes that announcement.

The following list of program benefits is the comprehensive list of benefits that currently qualify for the income exclusion stated in 24 CFR 215.21(c)(11), 236.3(c)(11), 813.106(c)(11), 905.102, and 913.106(c)(11):

(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));

(vii) Income derived from the disposition of funds of the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04);

(viii) The first \$2,000.00 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims (25 U.S.C. 1407-08) or from funds held in trust for an Indian tribe by the Secretary of the Interior (25 U.S.C. 117b, 1407);

(ix) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under the 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 1965 (42 U.S.C. 3056(f)); and

(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 the *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(xii) Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96-420, 94 Stat. 1785);

(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. 9858g).

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

Dated: June 1, 1993.

Henry G. Cisneros,

Secretary.

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