

# HOTMA Guidance Memo

**Background:** [The Housing Opportunity Through Modernization Act \(HOTMA\) was signed into law on July 29, 2016.](#)

- HOTMA was introduced to streamline the requirements across all HUD program processes and reduce the burden on housing providers.
- According to Treasury Regulations §1.42-5(b)(1)(vii), “Tenant income is calculated in a manner consistent with the determination of annual income under Section 8 of the U.S. Housing Act of 1937.” Therefore, HOTMA applies to all properties in the Virginia Housing rental portfolio.
- The [HOTMA Final Rule was published on January 9, 2023](#), and the [HOTMA Implementation Notice 2023-10 published on September 29, 2023](#) amends the occupancy, income, and asset determination criteria used for qualification in HUD administered programs. HOTMA also supersedes the guidance in the [HUD Handbook 4350.3, Change 4 Revision-1, Chapter 5](#); used for determining income eligibility for the LIHTC program.
- HUD issued an extension until January 1, 2025 (HUD Compliance Deadline) for its programs to fully implement the HOTMA eligibility requirements in all programs.

All properties under a covered HUD program (PBRA, HOME, HTF, RAD, Public Housing, etc.), must implement all areas of HOTMA by the HUD Compliance Deadline and apply the most restrictive requirements in the tenant certification. Please contact the HUD program Administrator for project-specific questions about the HUD mandated eligibility and documentation requirements.

## Virginia Housing HOTMA Compliance

**Will the HOTMA Guidance be Required or Optional for properties in the Virginia Housing Rental Portfolio?**

HOTMA should be applied to all properties in the Virginia Housing portfolio for certifications completed on and after January 1, 2024. Some areas of HOTMA may be optional or amended by the State Agency and applied in properties without covered HUD programs.

All properties in the Virginia Housing rental portfolio must prepare for and implement the HOTMA eligibility criteria for all tenant income certifications by January 1, 2025, or the date required for all programs by HUD or the IRS.

**Compliance Monitoring:** Properties that choose not to implement HOTMA criteria for new certifications after January 1, 2024, will receive an administrative comment in the property audit about the required HOTMA Compliance Deadline.

## **HOTMA Applied in HUD programs:**

- Interim recertifications, and annual recertifications to regulate the tenant paid rent and the rental assistance applied in the project.
- Income deductions for age, dependent students' status, health and medical expenses, disability status, and childcare are included in annual tenant certifications for rent calculations.
- The household may lose its eligibility for rental assistance and housing in certain HUD programs if it is over-income for more than 12 months.

## **HOTMA Applied in Virginia Housing Rental programs:**

- Interim recertifications are not required for Virginia Housing managed and administered programs. Annual recertification or reevaluation of the household income applies if an LIHTC property has market units or if there is a change in occupancy, and a self-certification every three years for compliance with loan program requirements.
- The rent charged to tenants in LIHTC properties is set by income limits published annually by HUD and can change annually instead of when the tenant's annual [adjusted] income changes, according to the HUD requirements.
- Income deductions are not applied in the LIHTC tenant certifications.
- Over-income households remain eligible in the LIHTC program, as long as the next available unit is leased to a qualified household to maintain the required project affordability percentage.

All properties must ensure diligence in confirming eligibility for all tenant certifications. Confirmation of eligibility includes documenting the tenant file with a TIC summarizing the occupancy, income, and rent, utility allowance, and student status as required, and the verification documents supporting the certification. Noncompliance with confirming tenant eligibility will be reported as required according to the EUA, loan agreement, and program requirements.

Virginia Housing created a written summary of HOTMA, the Agency guidance, and updated tenant certification forms in preparation for HOTMA implementation as of January 1, 2024. The forms are not required but are available to use as a reference and resource for completing required tenant certifications.

1. Tenant Income Certification Form (manual).
2. Under \$50,000 Asset Self-Certification form.
3. PHA Income Certification Form.

**Online Tenant Portal:** Virginia Housing is working closely with our software vendor for system updates to support HOTMA eligibility requirements.

## Tenant Income Certification

- **Effective January 1, 2024**, all LIHTC certifications must be documented with a signed Tenant Income Certification (TIC) form confirming occupancy, rent, utility allowance, student status and an income or self-certification of income as applicable.
- The TIC may be generated from the Agency Online Tenant Portal, property management software, manually completed, or the HUD/PHA TIC form 50058 or 50059. **Note:** The PHA tenant certification form also confirms and verifies eligibility for Virginia Housing programs.
- All properties with loans must document the tenant file with a completed, signed Tenant Income Certification form confirming income eligibility at move-in and at least once every three years.

## Income Verification

- All verification methods outlined in the HOTMA Notice 2023-10 may be used for all properties in the Virginia Housing rental portfolio as permitted. LIHTC properties without HUD programs are not permitted to review the EIV Upfront Verification statements.
- All properties may rely on income verification from the PHA Income Certification for all tenant certifications.

## Income Calculation

- Properties without HUD programs may continue using anticipated income for required annual recertifications. Annual recertifications are required for LIHTC properties with market units.

## Assets

- **Self-Certification if Total Asset Net Value \$50,000 or Less** - If the total net value of assets is equal to or less than \$50,000, a self-certification form may be completed to document all assets and the total value.
  - All actual asset income verified and self-certified must be included in the total income calculation.
  - Checking and Savings accounts cash value is \$0 on the TIC.
- **Required Verification if Total Asset Net Value is more than \$50,000** - If the total value of assets is over \$50,001, all assets must be verified.
  - Asset verification is only required if the total asset value is over \$50,000
  - Checking accounts and Savings accounts verified cash value must be included on the TIC.
  - The assets threshold requiring verification or imputed values may be adjusted annually for inflation.

## Dependent Student Income Adjusted Annually

- **Before the HOTMA Notice 2023-10**, the LIHTC program required the income included for dependent full-time students 18 or older to be the lesser of actual earned income or \$480, along with unearned income and income from assets.

**Under HOTMA**, the income amount included for dependent full-time students will be adjusted annually in accordance with the [Consumer Price Index for Urban Wage Earners and Clerical Workers \(CPI-W\)](#).

HUD will provide annual inflation-adjusted values for eligibility criteria. See the [2024 inflation-adjusted values](#).

## LIHTC Only - Student Financial Assistance for Full-Time and Part-Time Students

- **Before the HOTMA Notice 2023-10**, the LIHTC program excluded all forms of student financial assistance, no matter how it is used, from annual income for household not receiving Section 8 rental assistance. For households receiving Section 8 rental assistance, generally, income in excess of tuition is included with certain exceptions for students over age 23 with dependent children, or dependent students living with parents receiving Section 8 rental assistance. Financial assistance includes grants, scholarships, educational entitlements, work study programs, and financial aid packages. It doesn't matter whether the assistance is paid to the student or directly to the educational institution.

### **Under HOTMA:**

- **Exclude all assistance received under 479B of the Higher Education Act (HEA)**. The HEA student assistance is made available through federal, state, or local programs financed with federal funds. HOTMA 2023-10 includes guidance that the types of eligible excluded student financial assistance programs will be updated as of July 1, 2024. **(Reference HOTMA Notice 2023, section 6.16.a)**.
- **Include "other" student financial assistance** received by the student that, either by itself or in combination with HEA assistance, exceeds the actual covered costs. "Other" student financial assistance includes but is not limited to grants or scholarships paid directly to the student or to the educational institution on the student's behalf.

## Annual Recertification

- **LIHTC properties with 100% low-income units** are not required to complete income certifications after the move-in or initial certification for program eligibility. All move-in or initial certifications must include verified income and assets, as applicable.
- **LIHTC properties with Loans** are required to complete a TIC verifying occupancy, rent, utility allowance, and student status annually.
- **Loan only properties without LIHTC** are required to complete a TIC self-certifying income at least once every three years. All move-in certifications must include verified income.

**Annual Inflation-Adjusted Values** - Review the current inflation-adjusted values [here](#).

According to HUD, it will annually publish inflation-adjusted thresholds no later than Sept. 1<sup>st</sup> on the [HUDUser website](#). The revised amounts will be effective on Jan. 1 of the following year. Properties must confirm the thresholds when completing tenant certifications after January 1, 2024. Not all HUD required inflation-adjusted areas apply to the Virginia Housing program compliance.

The threshold eligibility areas applicable for the Virginia Housing rental portfolio include:

- Asset Passbook Rate (See the table below).
- Imputed Income from Asset Threshold, currently \$50,000 will be adjusted annually for inflation.
- Non-necessary Personal Property.
- Dependent Student Income Limits.
- Adoption Assistance Income Limits.

**Passbook Savings Rate for Imputed Values** - Assets are only imputed when the total net assets exceed \$50,000 (adjusted annually), and , included net assets do not have actual income. Assets verified as having \$0 actual income should not be imputed in the certification.

Table F3: Calculation of Passbook Rate for 2024

FDIC Monthly Update, Date of Publication	National Deposit Rate, Savings Accounts
4/17/2023	0.39 percent
5/15/2023	0.40 percent
6/20/2023	0.42 percent
<b>HUD Passbook Rate (average of 3 months of FDIC National Deposit Rates)</b>	<b>0.40 percent</b>