



Back to Basics

Part 5: Asset Income Part 2

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Back to Basics...Again! | Part Six | Five Steps to Implement HOTMA | Steps 1 and 2

Depending on which state you are in, HOTMA is either here or coming very soon. Legally it applied 1/1/2024, although all federal HUD offices affected by HOTMA have given grace periods into or through 2025, and some state LIHTC agencies have followed that model. Regardless, there is no time to waste! HCCPs, the foremost compliance professionals in the industry, are taking the lead and learning what they need to know to succeed at implementing HOTMA. Fortunately, we at The Credential are here to help! This article series discusses what we need to know.

In past articles, this series has covered several “back to basics” LIHTC topics changed by HOTMA. Starting with this segment and the next, it will be discussed how to forge these elements into a specific set of five steps to succeed in HOTMA implementation.

Prep: Build a HOTMA Library

To be successful in understanding the requirements in a HOTMA world, the below documents will be indispensable.

HOTMA

- **HUD regulations** 24 CFR 5.603 (*net family assets*) and 5.609(a) (*income inclusions*) and (b) (*income exclusions*).
- **HOTMA Notice** HUD 2023-10 (revised Feb 2024).
- **Federal Register** FR-6410–N–01 *Federally Mandated Exclusions From Income—Updated Listing*.
- **HUD Handbook** 4350.3, Change 4 (2013).
 - Note: In researching HOTMA topics, check the HOTMA Notice, other Notices, FAQ, and Federal Registers above first. If a topic is not addressed there, then the HUD Handbook guidance still applies.

Additional Recent Specialty Topics

- **HUD Notice** H-2019-06 *Treatment of ABLE Accounts in HUD-Assisted Programs*
- **Federal Register** FR-6476–N–01 *Section 8 Housing Choice Vouchers: Revised Implementation of the HUD-Veterans Affairs Supportive Housing Program*.
- **FAQ** *HUD-assisted Housing and Medicare Advantage Supplemental Benefits*



Step 1 | Determine state implementation policy

January 1, 2024... January 1, 2025... July 1, 2025... January 1, 2026... HUD's rollout of HOTMA has had several dates to come into compliance with HOTMA as implementation has progressively been postponed. Reportedly this is because HUD cannot get its TRACS 203A software system and forms finalized. These barriers to starting HOTMA do not specifically apply to state LIHTC agencies. According to statute and regulation, the LIHTC program income determinations are "made in a manner consistent with the determination of annual income and the estimates for median family income under Section 8 of the United States Housing Act of 1937 (H.U.D. Section 8)." The challenge here is that HOTMA legally applies to Section 8, but they cannot implement yet and so are given extra time to 'come into compliance' with the regulation. This leaves it up to each state agency to decide when HOTMA must be applied for LIHTC purposes in its state. There is also uncertainty regarding the timing at which noncompliance with HOTMA, resulting in over-income households for LIHTC purposes, will be reported as a violation of LIHTC regulations using Form 8823. The uncertainty of how making determinations 'in a manner consistent with' Section 8 applies in an era where HUD Section 8 is between the legal date and the 'in compliance' date has led several states to allow a grace period between when HOTMA must be applied and when HOTMA noncompliance that leads to LIHTC noncompliance will be reported as such to the IRS, when past rules would not have resulted in LIHTC noncompliance.

Examples

- **Texas** set 1/01/2024 as the mandatory HOTMA start date. Instances of HOTMA noncompliance resulting in LIHTC noncompliance have been reported to the IRS effective January 1, 2024.
- **Indiana** set 1/01/2024 as the firm HOTMA start date. Instances of HOTMA noncompliance that result in LIHTC noncompliance must be remedied; however, such issues will not be reported to the IRS as noncompliance until January 1, 2026. HOTMA/LIHTC noncompliance that occurs after that date will be reported.
- **Arizona** required implementation of HOTMA 'as much as possible' starting 1/01/2024. HOTMA issues causing LIHTC noncompliance must be fixed, but won't be reported on form 8823 until January 1, 2026. Any HOTMA/LIHTC noncompliance after that date will be reported.
- **Wyoming** has set a deadline of 1/01/2026 for HOTMA implementation. If an owner applies HOTMA, HOTMA noncompliance that leads to LIHTC noncompliance must be corrected but will not be reported as noncompliance on form 8823 until noncompliance that occurs after 1/01/2026.

All examples in this article reflect the author's understanding based on written statements and training provided by the state. Individual states should be consulted to confirm accuracy and for further details.



Checklist: Questions to ask a state agency

1. When is the start date for HOTMA in the state?
 2. Is this date a hard start date or a “no later than” date?
 3. Will there be a grace period before HOTMA-related noncompliance that creates LIHTC noncompliance will be reported to the IRS on form 8823?
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Step 2 | Adapt verification rules

HOTMA introduced a new hierarchy of how income, assets, and other key factors are verified. Priority is given to third-party documents provided by the household, rather than those exchanged directly with the third party. HUD also updated its process, now requiring two recent consecutive pay stubs to calculate annual employment income, and only one current checking account statement for verification.

Borrowing from the LIHTC code, HOTMA also allows self-certification of assets. It also instituted a new imputed income threshold from \$5,000 to \$50,000. As this was the threshold the IRS used in establishing the self-certification threshold, this shifted the \$5,000 to \$50,000 for self-certification for the LIHTC program as well.

HOTMA also expanded on the existing LIHTC rule that allows Public Housing Authority (PHA) to verify income for recipients of Housing Choice Voucher assistance. HOTMA expands this concept as an option to other federal programs, including all other HUD programs, TANF, WIC, and LIHTC, among others. If these other highly regulated federal programs have verified and determined income in the last 12 months, the determination is allowable for HOTMA purposes. PHA verification is a firm allowance in tax code, but the expansion to other means-tested programs varies among state LIHTC agencies.

Examples

- **Texas and Wyoming** adopted the HOTMA hierarchy as written by HUD. They do not allow the use of other means-tested programs.
- **Indiana and Arizona** adopted the HOTMA hierarchy as written by HUD. They allow the use of other means-tested programs.



- **California** did not adopt the HOTMA hierarchy. Verification of employment, three months of paystubs, YTD, and calculations beyond HUD requirements are still necessary before a household qualifies. It does not allow the use of other means-tested programs.

These examples reflect the author's understanding based on written statements and training provided by the state. The individual states must be consulted to confirm accuracy and for further details.

Checklist: Questions to ask a state agency

1. Is the state adopting the HOTMA hierarchy?
2. If the hierarchy is allowable, is it as written in HUD guidance or with some adjustments? *
3. Is the state allowing the use of other mean-tested programs to verify income?

* If there are adjustments to the hierarchy, per question 2, the following worksheet may be helpful.

Worksheet | State LIHTC HOTMA Verification Matrix

Verification Option	Yes	No	Notes
Are pre-HOTMA best practices still required?			
Is the HUD verification hierarchy allowed?			
If yes, are there any variations?			
Are other mean-tested program determinations allowed?			
If yes, which programs? TANF Medicaid SNAP EITC LIHTC WIC SSI Other state or local (for HOME only): _____			
Is using PHA determinations allowed?			
For HOME, required for TBRA?			
Note: required for NHTF PBRA and TBRA and may be required by the PJ for HOME PBRA and TBRA.			
Is an Asset Self-Certification form allowed?			Allowed at move in? ____ Still at \$5,000? ____
Is a letter for fixed income good all year?			
Are there required forms?			
If yes, which forms?			
Are there any suggested forms?			
If yes, which forms?			
Source of state information	Compliance Manual Website Notices Emails Letters		
Where information is stored:			

Up next – The Final Three Steps: Factors Related to Income and Assets



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