



Special Attention of:

## **NOTICE PDR-2010-03**

Regional Directors, Field Office Directors,  
Economists, Public & Indian Housing  
Division Directors, Multifamily Hub Directors,  
Multifamily Program Center Directors

Issued: May 14, 2010  
Expires: Effective until superseded

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Cross References:

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**Subject:** Transmittal of Fiscal Year 2010 Income Limits for  
the Section 221(d)(3) Below Market Interest Rate rental program,  
Section 235, and Section 236 Programs

This notice transmits revised income limits used to determine the income eligibility of applicants for assistance under three programs authorized by the National Housing Act. These programs are the Section 221(d)(3) Below Market Interest Rate (BMIR) rental program, the Section 235 program, and the Section 236 program. These income limits are listed by dollar amount and family size, and they are effective on the date issued.

The FY 2010 Income Limits implement a significant policy change. Historically, HUD has held Section 8 Income Limits harmless primarily so that Low-Income Housing Tax Credit (Internal Revenue Code section 42) and tax-exempt bond-financed projects (IRC. section 142) would not be subject to reductions in income qualification levels and maximum rents. Low-Income Housing Tax Credit (LIHTC) and tax-exempt bond-financed housing project income limits and rents are tied by statute to HUD's area median income estimates, and by regulation to HUD's Section 8 Income Limits.

Section 3009 of the Housing and Economic Recovery Act of 2008 (HERA) provides for holding harmless "area median gross income" for tax credit and tax-exempt bond-financed housing projects with additional inflation provisions for LIHTC and tax-exempt bond-financed projects held harmless by HUD in 2007 and 2008. Because the new law provides a statutory mechanism for achieving the effect of the income limit hold-harmless policy HUD will no longer hold income limits harmless. In response to comments received about this change in policy, HUD will implement a 5 percent cap on decreases and a cap of 5 percent or twice the annual national change, whichever is larger, on increases in the very low-income and low-income limits.

The revised income limits are based on HUD estimates of MFI for FY 2010. The income limits used for the Section 236 program are currently the same as the Public Housing/Section 8 low-income limits, which are defined by Section 3(b)(2) of the United States Housing Act of 1937. These income limits are normally set at 80 percent of area median family income for a four-person family, and adjusted for family size and unusually high or low housing costs. There are, however, situations where they are adjusted upward or downward.

Most four-person Section 236 limits are set at the greater of: 80 percent of the area median family income, or 80 percent of the state non-metropolitan median family income level. Because the Section 8 very low-income limits are not always based on 50 percent of median, calculating low-income limits as 80 percent of median would sometimes produce anomalies inconsistent with statutory intent (e.g., very low-income limits could be higher than low-income limits). To avoid this, the four-person low-income limit is calculated as 1.6 (80 percent/50 percent) times the four-person very low-income limit. The two exceptions are that the resulting income limit may not exceed the U.S. median family income level (\$64,400 for FY 2010) except when justified by high housing costs; and once adjusted, the four-person low-income limit decrease is capped at 5 percent or, if increasing, capped at 5 percent or twice the national change in median family income, whichever is larger. Use of very low-income limits as a starting point for calculating other income limits has the effect of adjusting other income limits in areas where the very low-income limits have been adjusted because of unusually high or low housing-cost-to-income relationships.

The Section 221(d)(3)BMIR income limits, which serve "individuals and families of low- and moderate-income," are set at 95 percent of median, adjusted for family size. These income limits are also adjusted for unusually high or low area housing costs, and use the HUD low-income limits as a basis for calculations. For instance, rather than the four-person limit being set at 95 percent of the local median family income amount, it is set as 95/80ths of the four-person low-income limit.

Section 235 states that income limits are to be defined as "95 per centum of the median income for the area, as determined by the Secretary with adjustments for larger and smaller families..." These income limits are identical to Section 221(d)(3)BMIR income limits except in instances where the Secretary has used his discretion to permit higher income limits to reflect high area construction costs.

### **Family Size Adjustments:**

By statute, family size adjustments are required to provide higher income limits for larger families and lower income limits for smaller families. The factors used are as follows:

#### Number of Persons in Family and Percentage Adjustments

<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
70%	80%	90%	Base	108%	116%	124%	132%

Income limits for families with more than eight persons are not included in the printed lists because of space limitations. For each person in excess of eight, the income limit for such households is computed by adding an additional eight percent to the four-person base. The nine-person income limit, for example, is set at 140 (132 + 8) percent of the relevant four-person income limit. Local agencies may round income limits for nine or more persons to the nearest \$50, or may use the un-rounded numbers. Family size-adjusted income limits are not re-tested for compliance with the 5 percent rule. Rounding anomalies produce some family size-adjusted income limits whose annual change is slightly larger or smaller than 5 percent.

### **HUD Field Office Responsibilities:**

HUD field offices with assisted housing functions are responsible for maintaining records of income limits for areas within their jurisdiction. Notice of all income limit revisions should be promptly distributed to program participants, and field offices should be prepared to make income limits available to the public upon request. These income limits are also available on the World Wide Web (<http://www.huduser.org/portal/datasets/il.html>).

FY2010 income limits are available in multiple formats on the World Wide Web (<http://www.huduser.org/portal/datasets/il.html>). Questions related to how these income limits apply to the programs of state and other federal agencies should be referred to those agencies. Questions concerning the methodology used to develop these income limits are addressed in the FY 2010 Income Limits Briefing Material, which is posted on the income limits website.



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