
INCOME

INCOME EXCLUSIONS

- C. OTHER UNEARNED INCOME EXCLUSIONS**
- The following is a discussion of additional income exclusions applicable to unearned income.
- 1. Home Produce for Personal Consumption**

Home produce is excluded from income if it is consumed by the individual or his/her household.

The proceeds from the sale of home produced may be unearned income if sold but not as a trade or business. If sold as a trade or business, the income may be earnings from self-employment.
 - 2. Refunds of Taxes Paid on Real Property or Food**

Any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased is excluded from income.
 - 3. German Reparation Payments**

German reparations payments are made under the Republic of Germany's Federal Law for Compensation of Nationalist Socialist Persecution ("German Restitution Act") to certain survivors of the Holocaust. The payments may be made periodically or as a lump sum. Reparations payments received from the Federal Republic of Germany are excluded from income. **Unspent payments are excluded from resources.**
 - 4. Austrian Social Insurance Payments**

The nationwide class action lawsuit, Bondy v. Sullivan, involved Austrian social insurance payments which were based, in whole or in part, on wage credits granted under Paragraphs 500-506 of the Austrian General Social Insurance Act (GSIA). These paragraphs grant credits to individuals who suffered a loss (i.e., were imprisoned, unemployed, or forced to flee Austria) during the period from March 1933 to May 1945 for political, religious, or ethnic reasons. (The GSIA does not specify what entity, e.g., the government or an employer, must be responsible for the loss in order for the credits to be granted.) Not all Austrian social insurance payments are based on Paragraphs 500-506.

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5. **The Nazi Persecution Victims Eligibility Act** Enacted August 1, 1994, the Nazi Persecution Victims Eligibility Act (P.L. 103-286) excludes from income any payments made to individuals because of their status as victims of Nazi persecution.
- This provision supersedes previous provisions for the exclusion of certain payments made by the governments of Germany, Austria, and the Netherlands, insofar as they are made to victims of Nazi persecution.
- Austrian social insurance payments based, in whole or in part, on wage credits granted under Paragraphs 500-506 of the Austrian General Social Insurance Act are not counted as income. **Unspent payments are excluded from resources.** Austrian social insurance payments not based on age credits granted under Paragraphs 500-506 are counted as income.
6. **Japanese-American & Aleutian Restitution Payments** Restitution payments made by the U. S. Government to to individual Japanese-Americans or the spouse or parent of individual of Japanese ancestry (or, if deceased, to their survivors) and Aleuts who were interned or relocated during World War II are excluded from income and resources. Also, restitution payments from the Canadian Government to individual Japanese-Canadians who were interned or relocated during World War II are excluded from income **and resources.**
7. **Netherlands WUV Payments to Victims of Persecution** The Dutch government, under the Netherland's Act on Benefits for Victims of Persecution 1940-1945 (Dutch acronym, WUV), makes payments to both Dutch and non-Dutch individuals who, during the German and Japanese occupation of the Netherlands and Netherlands East Indies (now the Republic of Indonesia) in World War II, were victims of persecution because of their race, religion, beliefs, or homosexuality and, as a result of that persecution are presently suffering from illnesses or disabilities. Payments under this Act began January 1, 1973 and include four categories of benefits: periodic income payments, compensation for non-definable disability expenses (Dutch acronym, NMIK), reimbursement of persecution related disability expenses, and partial compensation for persecution related disability expenses.

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WUV payments are excluded from income. **Unspent payments are excluded from resources.**

**8. Agent
Orange
Settlement
Payment**

Agent Orange settlement payments made in connection with the case of **In re Agent Orange Produce Liability Litigation** come from a fund created by manufacturers of Agent Orange who agreed to pay into a settlement fund. Payments began in March 1989. Qualifying veterans will receive at least one payment a year for the life of the program. Qualifying survivors of deceased veterans will receive a single lump sum payment.

Effective January 1, 1989, payments made from the Agent Orange settlement fund or any other fund established pursuant to the settlement in the Agent Orange product liability litigation are excluded from income **and resources.**

**9. Radiation
Exposure

Compensation
Trust Fund
Payments**

Fallout emitted during the U. S. Government's atmospheric nuclear testing in Nevada during the 1950's and during a brief period in 1962 exposed some individuals to doses of radiation that put their health at risk. In addition, some individuals employed in uranium mines during the period January 1, 1947 to December 31, 1971 were exposed to large doses of radiation. Public Law 101-426 created the Radiation Exposure Compensation Trust Fund (RECTF) and authorizes the Department of Justice (DOJ) to make compensation payments to individuals or their survivors who were found to have contracted certain diseases after the exposure. The payments will be made as a one-time lump sum. Generally, the exposure occurred in parts of Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming.

Payments from the RECTF are excluded from income. **Unspent payments are excluded from resources.**

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**9. Exclusion of
Income from
Individual
Interests in
Indian Trust
or Restricted
Lands**

Native American income derived from tribal trust lands is excluded by federal statutes. Individual interests of Native Americans in trust or restricted lands are excluded from resources. The Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66), enacted August 10, 1993, further provides for an exclusion of income derived from those individual interest in Indian trust or restricted lands.

This income (often called individual Indian trust or least income) generally comes from interests in lands that were allotted to individual Indians many years ago. The income generated by those interests may be quite small since many of the original interests in allotted lands have fractionated over time, e.g. due to inheritance by multiple heirs over several generations.

Effective January 1, 1994, up to \$2,000 per year in payments derived from individual interest in Indian trust or restricted lands is excluded from income. Such payments include any interest which accrues on these funds before being distributed or credited to an individual's account.

This exclusion applies to the income of an ineligible spouse or ineligible parent(s) in the deeming process.

For purposes of applying the \$2,000 annual exclusion, for both eligibles and deemors, only payments received in months of eligibility count toward the \$2,000 annual exclusion.

If that income exceeds \$2,000 per calendar year, determine the month that the \$2,000 annual exclusion was exceeded, and count the excess as unearned income in the months received.

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10. **HIV/
Hemophiliac
Settlement
Payments**
- Settlement payments received as a result of a class settlement in the case of Susan Walker v. Bayer Corporation, et al, are excluded as income and resources in determining Medicaid eligibility. (This same exclusion does not apply for SSI purposes.) This case involved hemophiliacs who contracted the HIV virus from contaminated blood products. Section 4735 of the Balanced Budget Act of 1997 mandates this income/resource exclusion for Medicaid applicants/recipients.
- Interest earned on settlement payments count as unearned income unless the settlement is placed in an approved Special Needs Trust.