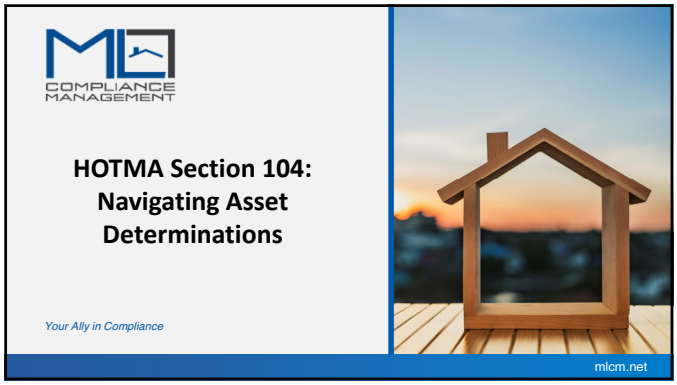
COMPLIANCE MANAGEMENT
HOTMA Section 104: Navigating Asset Determinations
Your Ally in Compliance
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M&L Compliance (MLCM) is a leading full-service consulting firm that specializes in the Federal Low-Income Housing Tax Credit (LIHTC), Federal HOME, Section 8, and Rural Housing 515 Programs.
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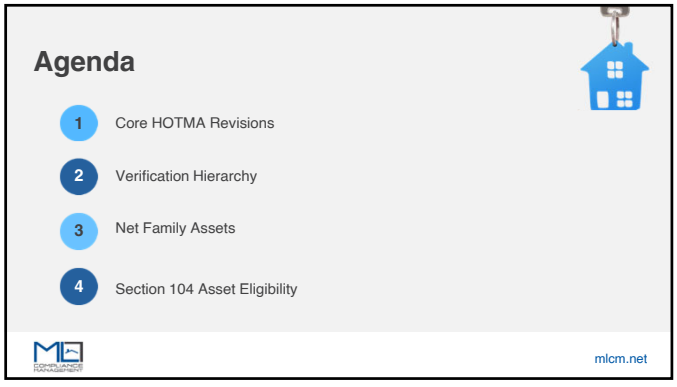
Agenda
1 Core HOTMA Revisions
2 Verification Hierarchy
3 Net Family Assets
4 Section 104 Asset Eligibility
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1- Core HOTMA Revisions

- Program applicability
  - Annual amounts
- Household definitions

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What HOTMA Changes

- Definitions of net family assets
- Asset exclusions
- Asset-income calculations and asset limitations

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HOTMA Sections that Matter Most

- **Section 102:** income reviews, exclusions, verification, deductions, and reexaminations.
- **Section 103:** continued occupancy of Public Housing over-income families.
- **Section 104:** assets and asset eligibility limits.
- Each section affects policy, forms, software, and resident communication.

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Asset Inclusion/Exclusion & Limitation on Asset Guide

- Use the current HUD income resource sheets.
- Confirm whether the program has adopted the HOTMA definition.
- Separate an income exclusion from an asset exclusion.
- Document the reason an item was counted, excluded, or deferred.

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Use the Right Amount for the Effective Date

- HUD publishes annual HOTMA amounts and the passbook rate.
- Use the amount for the calendar year in which the certification is effective.
- Programs that have not implemented full HOTMA do not automatically use the HOTMA table.
- January 2027 PHA and HCV actions require the 2027 values.

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2027 HUD Inflationary Adjusted Amounts

- Section 104 net family asset eligibility limit
  - 2027: $109,797
- Imputation, asset self-certification, and NNPP threshold
  - 2027: $54,898
- Passbook savings rate
  - 2027: 0.38%
- Dependent student earned-income cap and adoption assistance cap
  - 2027: $525
- Dependent deduction
  - 2027: $525
- Elderly/Disabled family deduction
  - 2027: $575

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Family Member vs. Household Member

- Family generally means the person or group of persons with the right to occupy the assisted unit.
- Household is broader and may include approved individuals who live in the unit but are not family members for income eligibility purposes.
- Family members are used for income eligibility, income limits, deductions, and many rent calculations.
- Household members may affect occupancy size even when their income and assets are not counted.

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Foster Adults and Foster Children

- Their income and assets are excluded from family income and net family assets.
- Payments for their care are excluded from annual income.
- They may be counted for occupancy size.
- Their status must be supported in the file.

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Live-In Aides

- A live-in aide may live in the unit to provide necessary supportive services to a family member with a disability.
- The live-in aide is not considered a family member and generally has no right to remain if the assisted family leaves.
- Do not count the aide's income or assets for family eligibility or rent.
- Live-in aides may affect occupancy size and must be approved under PHA policy.

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Part 2 – Verification

- Verification hierarchy
- Asset self-certification

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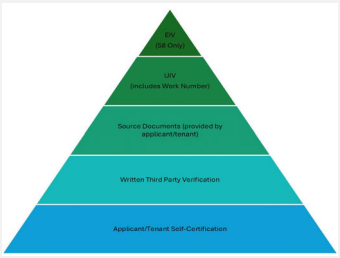
Verification Hierarchy



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Verification and Self-Certification Cycles

- PHA/HCV: assets at or below the annual HUD threshold may be self-certified when policy allows; obtain third-party asset verification at least every three years.

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Part 3 – Net Family Assets

- What is an asset
- What is excluded
- Cash value and actual income
  - Imputed income
  - Asset examples

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Net Family Assets – Five Separate Questions

- What does the family own or control?
- Is the item included in or excluded from net family assets?
- What actual income does the item produce?
- If net family assets exceed the threshold, which assets have income that cannot be calculated?
- Does a separate asset eligibility limitation apply?

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Building Net Family Assets

- Include countable real property.
- Include non-necessary personal property only when its combined value exceeds the annual threshold:
  - 2027 $54,898
- Exclude necessary personal property.
- Apply all specific asset exclusions.
- Subtract qualifying federal tax refunds and refundable credits received in the prior 12 months.

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Necessary vs. Non-Necessary Personal Property

- Necessary property supports the family's home, employment, education, health, or wellness.
- Examples may include ordinary furniture, clothing, vehicles, phones, computers, medical equipment, and work tools.
- Non-necessary personal property is property that does not meet that test.
- Classify the item based on use and circumstances, not price alone.

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Non-Necessary Personal Property Examples

- Recreational vehicles and equipment
- Collectibles, gems, art, and hobby assets
- Non-retirement investment accounts
- Cash, checking, and savings balances
- Other property not needed for home, work, education, health, or wellness
- Annual NNPP threshold: 2027- $54,898

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Table F1: Examples of Necessary and Non-Necessary Personal Property

Necessary Personal Property	Non-Necessary Personal Property
• Car(s)/vehicle(s) that a family relies on for transportation for personal or business use (e.g., bike, motorcycle, skateboard, scooter) • Furniture, carpets, linens, kitchenware • Common appliances • Common electronics (e.g., radio, television, DVD player, gaming system) • Clothing • Personal effects that are not luxury items (e.g., toys, books) • Wedding and engagement rings • Jewelry used in religious/cultural celebrations and ceremonies • Religious and cultural items • Medical equipment and supplies • Health care–related supplies • Musical instruments used by the family • Personal computers, phones, tablets, and related equipment • Professional tools of trade of the family, for example professional books • Educational materials and equipment used by the family, including equipment to accommodate persons with disabilities • Equipment used for exercising (e.g., treadmill, stationary bike, kayak, paddleboard, ski equipment)	• Recreational car/vehicle not needed for day-to-day transportation (campers, motorhomes, travel trailers, all-terrain vehicles (ATVs)) • Bank accounts or other financial investments (e.g., checking account, savings account, stocks/bonds) • Recreational boat/watercraft • Expensive jewelry without religious or cultural value, or which does not hold family significance • Collectibles (e.g., coins/stamps) • Equipment/machinery that is not used to generate income for a business • Items such as gems/precious metals, antique cars, artwork, etc.

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Real Property

- Real property generally includes land, homes, and other real estate under state law.
- Cash value generally equals fair market value minus debt and reasonable costs to sell.
- Count real property in net family assets unless a specific exclusion applies.
- Do not place real property under the NNPP threshold.
- Analyze rental income separately.

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Trusts – Ownership and Control

- A revocable trust controlled by a family member is treated as an asset.
- An irrevocable trust not under family control is excluded from net family assets.
- Confirm who can revoke, withdraw, direct, or dispose of trust principal.
- Review the trust document rather than relying only on the account title.

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Trust Distributions

- Distributions from trust principal are excluded from annual income.
- Distributions of trust income are generally counted unless another exclusion applies.
- Reimbursements for qualifying health and medical expenses may be excluded.
- If the family controls the trust, also analyze the trust value and actual asset income.
- Document principal, earnings, purpose, and frequency separately.

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Table F2: Annual Income/Net Family Assets Scenarios based on Trust Type

Trust Type	Is the trust considered a net family asset?	Is the actual interest earned by the trust considered family income?	Are distributions of trust principal considered family income?	Are distributions of interest earned on the trust principal considered family income?
Revocable Grantor is not part of the assisted family or household (and the family or household is not otherwise in control of the trust)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor
Revocable Grantor is part of the assisted family or household (or the trust is otherwise under the control of the family or household)	Yes	Yes	No	No
Irrevocable (Typically, Special Needs Trusts are irrevocable.)	No	No	No	Yes, unless the distributions are used to pay for the health and medical expenses for a minor

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Assets Disposed of for Less Than Fair Market Value

- Review dispositions during the two years before the effective date.
- Count the difference between cash value and the amount actually received.
- HOTMA removed the prior de minimis disposal amount.
- Exclude qualifying dispositions through foreclosure, bankruptcy, or divorce/separation settlement.
- Document the asset, date, value, amount received, and reason.

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Jointly Owned Assets

- Do not automatically divide the asset by the number of owners.
- Count the full value and income when the family member can access the full asset.
- Count only the accessible portion when documentation proves access is limited.
- Exclude the asset when the family cannot access or dispose of any portion under the rule.
- Document ownership, access, consent requirements, and who receives income.

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Retirement Accounts

- Recognized retirement accounts are excluded from net family assets while held.
- Interest, dividends, and growth inside the excluded account are not counted as asset income.
- Periodic distributions received by the family are income.
- A brokerage account or annuity is not automatically a retirement account.
- Verify account type and distribution pattern.

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Income Exclusion Does Not Always Mean Asset Exclusion

- Loan proceeds, insurance settlements, and certain civil settlements may be excluded when received as income.
- Retained funds may still become cash or another asset.
- Some items have a separate asset exclusion; others do not.
- Analyze the receipt first, then the balance held on the certification date.
- Cite both the income and asset rule in the file.

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Asset Value and Asset Income

- Cash value: current market value minus reasonable costs to convert to cash.
- Checking and savings use current balance under HOTMA.
- Count actual interest, dividends, rent, or other returns when determinable.
- Imputation threshold: 2027- $54,898.
- If net family assets are at or below the applicable threshold, do not impute income.
- If above the threshold, impute only for specific assets with undeterminable income.

30

When Imputed Asset Income Applies

- **Step 1:** Calculate net family assets.
- **Step 2:** Compare net family assets with the imputation threshold
  - 2027 $54,898
- **Step 3:** If above the threshold, identify assets with undeterminable income.
- **Step 4:** Apply the passbook rate only to those assets
  - 2027 0.38%
- **Step 5:** Add actual and required imputed income.

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NNPP and Real Property Work Differently

- Combined NNPP at or below the annual threshold is excluded
  - 2027 $54,898
- Combined NNPP above the threshold is included in full.
- Countable real property is included without using the NNPP threshold.
- Net family assets may therefore consist of only real property.
- Actual income from excluded NNPP may still count.

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Asset Calculation Decision Sequence

- Classify every item.
- Apply item-specific exclusions.
- Compare combined NNPP against the annual threshold:
  - 2027 $54,898
- Add countable real property and other included assets.
- Subtract qualifying federal tax refunds/credits.
- Determine actual income, imputation, and any asset eligibility restriction.

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Asset Example 1 – Below the Threshold

- Checking account: $30,000 at 0% interest
- Land: $20,000 cash value, income undeterminable
- Annual Threshold: 2027 $54,898
- NNPP is excluded due to being under threshold.

- Net family assets: $20,000
- Income from assets: $0

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Asset Example 2 – Real Property Over the Threshold

- Checking account: $35,000 at 0% interest
- Land: $80,000 cash value, income undeterminable
- Annual Threshold: 2027 $54,898

- Net family assets: $80,000
- Income from assets:
  - $304 (2027 passbook rate 0.38%)

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Asset Example 3 – Actual Plus Imputed Income

- Checking account: $55,000; actual income $450
- Land: $42,000, income undeterminable
- Annual Threshold: 2027 $54,898

- Net family assets: $97,000
- Income from assets:
  - $450 + ($42,000 x 0.38%) = $609.60 (2027 passbook rate)

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Federal Tax Refunds and Refundable Credits

- Exclude qualifying federal tax refunds and refundable credits from net family assets for 12 months after receipt.
- Do not apply this exclusion to state tax refunds.
- Subtract the qualifying amount from otherwise countable net family assets.
- If assets exceed the applicable threshold before exclusion, verify the refund/credit amount.
- Document receipt date and amount.

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Federal Refund Example 1 - Question

- Federal refund received six months ago: $4,500
- Non-interest checking: $1,000
- Savings: $5,000; annual interest $10

- What are total NNPP, net family assets and asset income?

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Federal Refund Example 1 - Answer

- Total NNPP: $6,000
  - NNPP is under the threshold amount (2027 $54,898) and will be excluded

- Net family assets: $0
- The federal refund exclusion does not reduce the total below zero.
- Total income from assets: $10

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Federal Refund Example 2 - Question

- Federal refund received six months ago: $4,500
- Checking: $10,000 at 0% interest
- Savings: $65,000; annual interest $130
- Land: $45,000, income undeterminable

- What are net family assets and total asset income?

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Federal Refund Example 2 - Answer

- Total countable assets before refund exclusion: $120,000
- Less federal refund: $4,500

- Net family assets: $115,500
- Actual income: $130

- Income from assets:
  - $130 + ($45,000 x 0.38%) = $301 (2027 passbook rate)

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Federal Refund Example 3 - Question

- Federal refund received six months ago: $4,500
- Checking: $10,000 at 0% interest
- Savings: $45,000, annual interest $100
- No real property or other assets

- What are net family assets and asset income?

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Federal Refund Example 3 - Answer

- Countable NNPP before refund exclusion: $55,000
- Less federal refund: $4,500

- Net family assets: $50,500
- Net family assets are below 2027 imputation thresholds; actual asset income: $100.

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Part 3 – Section 104 Asset Eligibility

- Covered programs
- Net asset limit
- Suitable real property
- Admission and reexamination rules
- Consequences and cure options

44

Who Is Subject to the Asset Eligibility Limit?

- Covered: Public Housing, HCV, PBV, Section 8 Mod Rehab/SRO, Section 8 PBRA, 202/8, and HOPWA under applicable guidance.
- Net family asset eligibility limit: 2027 $109,797
- Separate restriction: suitable real property owned by the family.
- Use the annual amount for the certification effective date.

45

Suitable Real Property – Four-Part Ownership Test

- The family has a present ownership interest.
- The family has a legal right to reside in the property.
- The family has effective legal authority to sell the property.
- The property is suitable for occupancy by the family.

- Apply regulatory exceptions for certain joint ownership, VAWA circumstances, and property offered for sale.

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When Real Property is Not Suitable

- It does not meet a family member's disability-related needs.
- It is not appropriate for family size under adopted standards.
- Its location creates a documented work or school commuting hardship.
- Its condition is unsafe or cost-prohibitive to make safe.
- The family lacks the legal right to reside there.

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Asset Limitation at Admission

- Covered programs must apply the asset limitation at new admission or initial assistance.
- Admission is denied when net family assets exceed the annual limit or the family owns disqualifying suitable real property.
- Reexamination discretion does not apply at admission.
- Verify exceptions before denying eligibility.
- Issue the required notice and review/appeal rights.

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Asset Limitation at Reexamination

- Covered PHAs owners must adopt a written enforcement policy.
- Policy options include total enforcement, total non-enforcement, limited enforcement, and exception policies.
- The chosen policy belongs in the ACOP, Administrative Plan.
  - Apply the policy consistently
- Continue to calculate and document net family assets even when not enforcing eligibility.

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Total Enforcement vs. Total Non-Enforcement

- Total enforcement: apply both restrictions at reexamination; there is no cure opportunity under this option.
- If noncompliance remains, initiate required termination action within six months of the reexamination effective date.
- Total non-enforcement: do not terminate assistance for asset-limit noncompliance at reexamination and apply the policy consistently within the program.
- Neither choice changes the admission rule.
- Asset value and asset income must still be determined for rent and reporting.

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Limited Enforcement

- Give the family a written opportunity to cure noncompliance.
- The cure period may not exceed six months after the effective date of the reexamination, except as a reasonable accommodation.
- State the cure period and acceptable documentation in policy.
- Verify that the family cured the issue.
- If not cured, begin required termination action within HUD's time limit.

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Exception Policies at Reexamination

- Policies may consider age, disability, income, ability to find other housing, or supportive services.
- Define which families qualify.
- State whether the exception gives total non-enforcement or a limited cure period.
- Apply fair housing and reasonable accommodation requirements.
- Do not use exceptions at admission.

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Ways a Family May Cure Noncompliance

- Sell or offer disqualifying real property for sale.
- Reduce countable net family assets below the annual limit.
- Purchase necessary personal property for legitimate family use.
- Move funds into a qualifying excluded retirement account or other excluded asset.
- Provide documentation supporting an exclusion or limited access.

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Consequences by Program – HCV/PBV

- **HCV**: terminate voucher assistance; the owner separately applies the lease and state/local law.
- **PBV**: terminate assistance and follow HUD requirements for the unit and HAP contract.
- Loss of assistance is not automatically the same as eviction.

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Consequences by Program – Public Housing

- Public Housing: terminate assistance and tenancy when required by the adopted Section 104 policy.
- A Public Housing family cannot use Section 103 alternative rent to cure Section 104 asset ineligibility.
- Provide required notices, grievance rights, and reasonable accommodation review.
- Track voluntary move-out and termination dates.

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Questions?

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