

WAC 458-16A-120 Senior citizen, disabled person, and disabled veteran exemption—Determining combined disposable income. (1) **Introduction.** This rule describes how an assessor determines a claimant's combined disposable income.

Examples. This rule includes examples that identify a set of facts and then state a conclusion. These examples should only be used as a general guide.

(2) **Begin by calculating disposable income.** The assessor must determine the disposable income of the claimant, the claimant's spouse or domestic partner, and all cotenants. The assessor begins by obtaining a copy of the claimant's, the claimant's spouse's or domestic partner's, and any cotenant's federal income tax return. If the federal income tax returns are not provided, the assessor must calculate disposable income from copies of other income documents (e.g., W-2, 1099-R, 1099-INT, etc.). If the federal income tax returns are provided, adjusted gross income is found on the front pages of Form 1040, Form 1040A, and Form 1040EZ. Even if a federal income tax return is provided, an assessor may request copies of supporting documents to verify the amount of the claimant's combined disposable income.

(a) **Absent spouse or domestic partner.** When a spouse or domestic partner has been absent for over a year and the claimant has no knowledge of their spouse's or domestic partner's location or whether the spouse or domestic partner has income, and the claimant has not received anything of value from the spouse or domestic partner or anyone acting on behalf of the spouse or domestic partner, the disposable income of the spouse or domestic partner is deemed to be zero for purposes of this exemption. The claimant must submit with the application a dated statement signed under the penalty of perjury. This statement must state that more than one year prior to filing the exemption application:

- (i) The claimant's spouse or domestic partner was absent;
- (ii) The claimant has not and does not know the location of their spouse or domestic partner;
- (iii) The claimant has not had any communication with their spouse or domestic partner; and
- (iv) The claimant has not received anything of value from their spouse or domestic partner or anyone acting on behalf of their spouse or domestic partner.

The statement must also agree to provide this income information if the claimant is able to obtain it anytime within the next six years.

(b) **Form 1040EZ.** Generally, the adjusted gross income on Form 1040EZ represents the disposable income for the person or couple filing the return. However, the adjusted gross income as shown on the Form 1040EZ must be increased by the following amounts which are excluded from adjusted gross income.

(i) **Gain from a sold residence.** Under certain circumstances, gain from a sold residence is added onto the seller's adjusted gross income. Since excluded capital gains from the sale of a principal residence are generally not reported on the federal income tax return, the exemption application asks if a home has been sold, whether the sale proceeds were reinvested in a new principal residence, and the amount of capital gain from the sale.

(A) If the proceeds were reinvested in a new principal residence, the excluded capital gain reinvested in the new residence is ignored.

The adjusted gross income on Form 1040EZ is not adjusted for any part of the excluded capital gain reinvested in the new residence.

(B) If the proceeds were not reinvested in a new principal residence or if only a part of the proceeds were reinvested in a new principal residence, the amount of excluded capital gain that is not reinvested in a new principal residence is added onto the seller's adjusted gross income to determine the seller's disposable income. The assessor may accept the excluded capital gain amount claimed on the application or request a copy of documents demonstrating the seller's basis in the property and the capital gain earned on the sale.

(ii) **Interest received on state and municipal bonds.** Interest received on state or local government bonds is generally not subject to federal income tax. This tax exempt interest is marked "TEI" and reported on the Form 1040EZ. The tax-exempt interest is added to the bond owner's federal adjusted gross income to determine the bond owner's disposable income.

(A) The assessor may ask a claimant whether the claimant, the claimant's spouse or domestic partner, or any cotenants own state or local government bonds. If the federal income tax return does not show the tax exempt amount from the bond, the assessor may ask to see a copy of the Form 1099-INT (Interest Income).

(B) If the claimant does not have Form 1099-INT, the bond issuer should be able to determine whether the interest is taxable. The bond issuer should also provide the owner with a periodic, or year-end, statement showing the tax treatment of the bond. If the recipient of the bond income invested in the bond through a trust, a fund, or other organization, that organization should provide the recipient with this information.

(iii) **Excluded military pay and benefits.** Military pay and benefits excluded from federal adjusted gross income, other than attendant-care and medical-aid payments, are added to the adjusted gross income of the military personnel receiving the excluded military pay or benefits to determine that person's disposable income. Excluded military pay and benefits are discussed in more detail in (d)(vii) of this subsection.

(iv) **Veterans benefits.** Veterans benefits are added to the veteran's adjusted gross income to determine the veteran's disposable income. The following veterans benefits are not added to a veteran's adjusted gross income:

(A) Attendant-care payments and medical-aid payments, defined as any payments for medical care, home health care, health insurance coverage, hospital benefits, or nursing home benefits provided by the Department of Veterans Affairs (VA);

(B) Disability compensation, defined as payments made by the VA to a veteran because of a service-connected disability; and

(C) Dependency and indemnity compensation, defined as payments made by the VA to a surviving spouse, child, or parent.

Veterans benefits are discussed in more detail in (d)(viii) of this subsection.

(c) **Form 1040A.** If a claimant provides a copy of a Form 1040A, the assessor calculates the disposable income for the person or couple filing the return by adding to the adjusted gross income, the items described below, but only to the extent these items were excluded or deducted from gross income.

(i) **Gain from a sold residence.** The excluded capital gain from selling a principal residence to the extent the excluded gain was not reinvested in a new principal residence is added onto the seller's ad-

justed gross income to determine the seller's disposable income. Refer to (b)(i) of this subsection for a more complete discussion of excluded capital gain on a sold residence.

(ii) **Interest received on state and municipal bonds.** Interest received on state or local government bonds is generally not subject to federal income tax. The tax-exempt interest reported on Form 1040A is added back to the bond owner's adjusted gross income to determine the bond owner's disposable income. Refer to (b)(ii) of this subsection for a more complete discussion of tax-exempt interest on state and municipal bonds.

(iii) **Pension and annuity receipts.** Any nontaxable pension and annuity amounts are added onto the recipient's adjusted gross income amount to determine the recipient's disposable income. The nontaxable pension and annuity amounts are the difference between the total pension and annuity amounts reported and the taxable amounts reported. If the total amount of the pension and annuity amounts are not reported on the return, the assessor may use a copy of the Form 1099-R (Distributions from Pensions, Annuities, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, etc.) issued to the claimant, the claimant's spouse or domestic partner, or the cotenant to determine the total amount of pension and annuity amounts received. Pension and annuity amounts do not include distributions made from a traditional individual retirement account.

(iv) **Federal Social Security Act and railroad retirement benefits.** Any nontaxable Social Security benefit or equivalent railroad retirement amount reported on the Form 1040A federal income tax return is added to the adjusted gross income of the person receiving these benefits to determine that person's disposable income. The nontaxable Social Security benefit or equivalent railroad retirement amount is the difference between the total Social Security benefits or equivalent railroad retirement amounts reported and the taxable amount reported. If the total amount of the Social Security benefit or equivalent railroad retirement amount is not reported on the federal income tax return, the assessor may use a copy of the Form SSA-1099 or Form RRB-1099 issued to the claimant, the claimant's spouse or domestic partner, or the cotenant, to determine the Social Security benefits or the railroad retirement benefits received.

(v) **Excluded military pay and benefits.** Military pay and benefits excluded from federal adjusted gross income, other than attendant-care and medical-aid payments, are added to the adjusted gross income of the military personnel receiving the excluded military pay or benefits to determine that person's disposable income. Excluded military pay and benefits are discussed in (d)(vii) of this subsection.

(vi) **Veterans benefits.** Veterans benefits are added to the veteran's adjusted gross income to determine the veteran's disposable income. The following veterans benefits are not added to a veteran's adjusted gross income:

(A) Attendant-care payments and medical-aid payments, defined as any payments for medical care, home health care, health insurance coverage, hospital benefits, or nursing home benefits provided by the VA;

(B) Disability compensation, defined as payments made by the VA to a veteran because of a service-connected disability; and

(C) Dependency and indemnity compensation, defined as payments made by the VA to a surviving spouse, child, or parent.

Veterans benefits are discussed in (d)(viii) of this subsection.

(d) **Form 1040.** If a claimant provides a copy of the Form 1040, the assessor will calculate the disposable income for the person or

couple filing the return by adding to the reported adjusted gross income all of the items described below, but only to the extent these items were excluded or deducted from gross income.

(i) **Gain from a sold residence.** The excluded capital gain from selling a principal residence to the extent that excluded gain was not reinvested in a new principal residence is added onto the seller's adjusted gross income to determine the seller's disposable income.

(ii) **Capital gains.** If the federal income tax return shows capital gains or losses, the assessor examines a copy of the schedule or forms, if any, that were filed with the return. The assessor should examine the capital gains reported on Schedule D (Capital Gains and Losses) and on Forms 4684 (Casualty and Thefts), 4797 (Sales of Business Property), and 8829 (Business Use of Home).

The assessor adds to adjusted gross income, any amount of capital gains reduced by losses or deductions on the schedules or forms listed above to determine the total capital gains. The amount of capital gains that were excluded or deducted from adjusted gross income must be added to the adjusted gross income to determine disposable income.

(iii) **Losses.** Amounts deducted for losses are added to adjusted gross income to determine disposable income. Most losses are reported on the federal income tax return in parentheses to reflect that these loss amounts are to be deducted. Net losses are reported on Form 1040 as business losses, capital losses, other losses, rental or partnership-type losses, or as farm losses. The assessor adds these amounts to the adjusted gross income. Additionally, the assessor adds to adjusted gross income the amount reported as a penalty on early withdrawal of savings because the amount represents a loss under section 62 of the Internal Revenue Code.

(A) The claimant only reports the net amount of these losses on the front page of the Form 1040 federal income tax return. A loss may be used on other schedules or forms to reduce income before being transferred to the front page of the tax return to calculate adjusted gross income. The assessor adds to the adjusted gross income the amount of losses used to reduce income on these other schedules and forms. The amount of losses that were used to reduce adjusted gross income must be added to the adjusted gross income to determine disposable income.

For example, a claimant reports a five thousand dollar capital loss on the front page of the 1040. On the Schedule D, the claimant reports two thousand dollars in long-term capital gains from the sale of Company X stock and seven thousand dollars in long-term capital losses from the sale of an interest in the Y limited partnership. The assessor has already added the five thousand dollar loss from the net capital loss reported on the front page of the tax return. The assessor would add onto adjusted gross income only the additional two thousand dollars in losses from the Schedule D that was used to offset the capital gain the claimant earned from the sale of Company X stock.

(B) The assessor should examine losses reported on Schedules C (Profit or Loss from Business), D (Capital Gains and Losses), E (Supplemental Income and Loss), F (Profit or Loss from Farming), and K-1 (Shareholder's Share of Income, Credits, Deductions, etc.), and on Forms 4684 (Casualty and Thefts), 4797 (Sales of Business Property), 8582 (Passive Activity Loss Limitations), and 8829 (Business Use of Home) to determine the total amount of losses claimed.

(iv) **Depreciation.** Amounts deducted for the depreciation, depletion, or amortization of an asset's costs are added onto the adjusted gross income to determine the disposable income. This includes section

179 expenses, as an expense in lieu of depreciation. Amounts deducted for depreciation, depletion, amortization, and 179 expenses may be found on Schedules C, C-EZ, E, F, K and K-1, and on Form 4835 (Farm Rental Income and Expenses). If the schedule or form results in a loss transferred to the front of the Form 1040 federal income tax return, the depreciation deduction to the extent it is represented in that loss amount should not be added onto the adjusted gross income, as this would result in it being added back twice;

(v) **Pension and annuity receipts.** Any nontaxable pension and annuity amounts are added to the recipient's adjusted gross income amount to determine the recipient's disposable income. The nontaxable pension and annuity amounts are the difference between the total pension and annuity amounts reported and the taxable amounts reported. If the total pension and annuity amounts are not reported on the tax return, the assessor may use a copy of the Form 1099-R (Distributions from Pensions, Annuities, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, etc.) issued to the claimant, the claimant's spouse or domestic partner, or the cotenant to determine the total pension and annuity amounts received. Pension and annuity amounts do not include distributions made from a traditional individual retirement account.

(vi) **Federal Social Security Act and railroad retirement benefits.** Any nontaxable Social Security benefit or equivalent railroad retirement amount reported on the Form 1040 federal income tax return is added to the adjusted gross income of the person receiving these benefits to determine that person's disposable income. The nontaxable Social Security benefit or equivalent railroad retirement amount is the difference between the total Social Security benefits or equivalent railroad retirement amounts reported and the taxable amounts reported. If the total amount of the Social Security benefit or equivalent railroad retirement amount is not reported on the tax return, the assessor may use a copy of the Form SSA-1099 or Form RRB-1099 issued to the claimant, the claimant's spouse or domestic partner, or the cotenant to determine the Social Security benefits or the railroad retirement benefits received.

(vii) **Excluded military pay and benefits.** Military pay and benefits excluded from federal adjusted gross income, other than pay or benefits for attendant care or medical aid, are added to the adjusted gross income of the military personnel receiving the military pay or benefits to determine that person's disposable income. Excluded military pay and benefits are not reported on the Form 1040. Excluded military pay and benefits such as pay earned in a combat zone, basic allowance for subsistence (BAS), basic allowance for housing (BAH), and certain in-kind allowances, are reported on Form W-2. The claimant should disclose when excluded military pay and benefits were received and provide copies of the Form W-2 or other documents that verify the amounts received.

(viii) **Veterans benefits.** Federal law excludes from gross income any veterans benefit payments paid under any law, regulation, or administrative practice administered by the VA. The following veterans benefits are not added to a veteran's adjusted gross income:

(A) Attendant-care payments and medical-aid payments, defined as any payments for medical care, home health care, health insurance coverage, hospital benefits, or nursing home benefits provided by the VA;

(B) Disability compensation, defined as payments made by the VA to a veteran because of a service-connected disability; and

(C) Dependency and indemnity compensation, defined as payments made by the VA to a surviving spouse, child, or parent.

VA benefits are not reported on the Form 1040. The claimant should disclose when excluded veterans benefits were received and provide copies of documents that verify the amount received.

(ix) **Dividend receipts.** Exempt-interest dividends received from a regulated investment company (mutual fund) are reported on the tax-exempt interest line of the Form 1040 and added to the recipient's adjusted gross income to determine that recipient's disposable income.

(A) The assessor may ask a claimant whether the claimant, the claimant's spouse or domestic partner, or any cotenants have received exempt-interest dividends.

(B) Generally, the mutual fund owner will receive a notice from the mutual fund telling them the amount of the exempt-interest dividends received. These exempt-interest dividends are not shown on Form 1099-DIV or Form 1099-INT. Although exempt-interest dividends are not taxable, the owner must report them on the Form 1040 tax return if they have to file; and

(x) **Interest received on state and municipal bonds.** Interest received on state or local government bonds is generally not subject to federal income tax. The tax-exempt interest is reported on the Form 1040 and added to the bond owner's adjusted gross income to determine the bond owner's disposable income.

(3) **Calculate the combined disposable income.** Once the assessor has calculated the disposable income for the claimant, the claimant's spouse or domestic partner, and any cotenants, the assessor will add the disposable incomes together. To calculate the combined disposable income for the claimant, the assessor will subtract from the sum of the disposable income, the amounts paid by the claimant or the claimant's spouse or domestic partner during that calendar year for their:

(a) Legally prescribed drugs;

(b) Home health care;

(c) Nursing home, assisted living facility, or adult family home expenses; and

(d) Health care insurance premiums for medicare under Title XVIII of the Social Security Act.

[Statutory Authority: RCW 84.36.865. WSR 20-04-017, § 458-16A-120, filed 1/24/20, effective 2/24/20. Statutory Authority: RCW 84.36.389 and 84.36.865. WSR 13-12-047, § 458-16A-120, filed 5/31/13, effective 7/1/13. Statutory Authority: RCW 84.36.383, 84.36.389, and 84.36.865. WSR 08-16-078, § 458-16A-120, filed 7/31/08, effective 8/31/08; WSR 03-09-002, § 458-16A-120, filed 4/2/03, effective 5/3/03.]