

The logo for the National Structured Settlements Trade Association features a stylized arch at the top, with a blue section on the left and a gold section on the right. Below the arch, the text "National Structured Settlements Trade Association" is displayed in a blue, sans-serif font.

National
Structured Settlements
Trade Association



11.18.2019

Office of General Counsel, Rules Docket Clerk
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

Re: HUD Docket No FR-6057-P-01, RIN 2577-AD03 Comments in Response to Proposed Rulemaking: Housing Opportunity Through Modernization Act of 2016: Implementation of Sections 102, 103, and 104

Dear Sir/Madam:

On behalf of the National Structured Settlements Trade Association (NSSTA), an organization whose members provide long-term financial security to the injured and their families through periodic payments, and the American Association of People with Disabilities (AAPD), an organization which advocates for the rights of disabled individuals, we encourage the adoption of the exemption for compensation for physical injuries recovered in civil actions or settlements or worker's compensation claims by injured people and their families from the earned income definitions in the proposed rules under Section 102.

HUD has asked for specific solicitation of comment 10 as follows: The proposed rule provides that certain distributions are considered excluded income, including any amounts recovered in any civil action or settlement based on a claim of malpractice, negligence, or other breach of duty, owed to a family member arising out of law, that resulted in a member of the family being disabled. HUD is also requesting comment on whether the final rule should simply count the lump-sum insurance payment or settlement as income, rather than excluding it from annual income at any point in time.

The Internal Revenue Code under section 104(a)(2) does not consider money recovered as a result of physical injuries or physical sickness claims as a form of income. Physical injury recoveries are seen as making a person whole again, returning the "human capital" lost to the injury or illness. No gain or income results and thus these funds are not considered income. Internal Revenue Code section 104(a)(1) excludes worker's compensation recoveries from income under the same theory. Congress has repeatedly granted tax exemption and non-recognition of income to a wide group of injured persons throughout its legislative history and exempting recoveries from civil action, malpractice or other breaches should not be considered earned income under the proposed rules. We

encourage HUD to exclude any compensation for physical injuries recovered in a civil action or settlement or worker's compensation claims by injured people and their families from being considered earned income.

Lastly, we support the proposed rule that would provide that amounts in or from ABLE accounts created under section 529A of the Internal Revenue Code are excluded from income. ABLE accounts allow the disabled to segregate funds for their well-being while preserving Medicaid and SSI eligibility, providing them with the critical medical care they need. We encourage the adoption of this rule, as maintaining an ABLE Account without it counting as earned income will enable the disabled to maintain both their housing and an adequate level of medical care.

The injured and the disabled face significant hurdles to self-sufficiency and financial dignity; the proposed rules will help meet that challenge by allowing the exceptions for ABLE Accounts and physical injury recoveries.

Michelle Caine

Michelle Caine
President, National Structured Settlements Trade Association

Maria Town

Maria Town,
President, American Association of People with Disabilities