

## TO BE RESCINDED

5101:4-4-03           **Food stamps: exempt resources.**

In determining the resources of an assistance group (AG), only those resources specified in this rule and rule 5101:4-4-03.3 of the Administrative Code shall be exempted.

(A) Home and surrounding property

The home and surrounding property that is not separated from the home by intervening property owned by others is considered part of the home which is an exempt resource. Public rights of way, such as roads which run through the surrounding property and separate it from the home, will not affect the exemption of the property. The home and surrounding property shall remain exempt when temporarily unoccupied for reasons of employment, training for future employment, illness, or uninhabitability caused by casualty or natural disaster if the AG intends to return. If the AG does not already own a home, the value of a lot purchased to build a permanent home on is excluded. If the new permanent home is partially completed, its value is also excluded. When a portion of the surrounding property (as defined in this paragraph) is income-producing or potentially income-producing (such as farm land, a vacant house or half of a double house), the entire value of the property is exempt, and the income-producing test defined in paragraph (D) of this rule does not apply. However, any income received from such property must be considered.

(B) Household and personal goods, life insurance, pension funds, burial plot, revocable funeral agreement

Household goods, personal effects, the cash value of life insurance policies, one burial plot per AG member, and the value of one bona fide (revocable) funeral agreement per AG member, provided that the agreement does not exceed one thousand five hundred dollars in equity value. In the event that the equity value in such a funeral agreement exceeds one thousand five hundred dollars, the equity value above one thousand five hundred dollars is counted. The cash value of pension plans or funds and retirement accounts shall be excluded in accordance with paragraph (A) of rule 5101:4-4-03.3 of the Administrative Code.

(C) Vehicles

Vehicles shall be totally excluded in accordance with Ohio's temporary assistance for needy families (TANF) plan as permitted by the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act of 2001, Pub. L. No. 106-387, (10/2000).

(D) Income-producing property

(1) Definitions of "income-producing property"

- (a) Property which annually produces income consistent with its fair market value, even if only used on a seasonal basis: such property shall include rental homes and vacation homes (if income producing);
- (b) Property, such as farm land, which is essential to the employment or the self-employment of a household member;
- (c) Work-related equipment, such as the tools of a tradesman or the machinery of a farmer, which is essential to the employment or self-employment of a household member;
- (d) Installment contracts for the sale of land or buildings if the contract or agreement is producing income consistent with its fair market value. The value of the property sold under contract or held as security in exchange for a purchase price consistent with the fair market value of that property is also excluded;
- (e) Property essential to the self-employment of an AG member engaged in farming shall continue to be excluded for one year from the date the AG member terminates the member's self-employment from farming.

(2) Determining fair market value

The county agency shall use the following guidelines in determining the fair market value of property:

- (a) If it is questionable that property is producing income consistent with its fair market value, the county agency may contact local realtors, local tax assessors, the small business administration, farmer's home administration, or other similar sources to determine the prevailing rate of return, e.g., square foot rental for similar usage of real property in the area.
- (b) If the county agency determines that the property is not producing income consistent with its fair market value (for instance, the property is being leased for a token payment), the fair market value of such property less encumbrances is counted as a resource. However, if the property was leased for a return that was comparable to other property in the area leased for similar purposes, it is considered as producing income consistent with its fair market value and is not considered a resource.

- (c) All findings shall be thoroughly documented in the case file as required in paragraph (I) of rule 5101:4-2-09 of the Administrative Code.
- (d) Property exempt as essential to employment need not be producing income consistent with its fair market value. For instance, the land of a farmer is essential to the farmer's employment; a good or bad crop year would not affect the exemption of such property as a resource.

(E) Inaccessible resources

Resources are exempted if the cash value is not accessible to the AG such as, but not limited to, irrevocable trust funds, security deposits on rental property or utilities, property in probate, and real property which the AG is making a good faith effort to sell at a reasonable price and which has not been sold. The county agency may verify that the property is for sale and that the AG has not declined a reasonable offer. Verification may be obtained through a collateral contact or documentation, such as an advertisement for public sale in a newspaper of general circulation or a listing with a real estate broker. Resources shall be considered inaccessible to the AG as long as they were truly unknown to the AG. At the point the AG discovers or is made aware of the resources that are legally available to the AG, the resources must be counted in determining the AG's eligibility for food stamps. Any funds transferred to a trust, and the income produced by that trust, shall be considered inaccessible to the AG if:

- (1) The trust is under the control and management of an institution, corporation, or organization (the trustee) which is not under the direction or ownership of any AG member, or an individual appointed by the court who has court-imposed limitations placed on his or her use of the funds that meet the requirements of this paragraph;
- (2) The funds held in irrevocable trust are either: established from the AG's own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational or medical expenses of any person named by the AG creating the trust; or established from non AG funds by a non AG member;
- (3) The trust investments do not directly involve or assist any business or corporation under the control or influence of an AG member;
- (4) The trust arrangement will not likely cease during the certification period; and
- (5) No AG member has the power to revoke the trust arrangements or change the

name of the beneficiary during the certification period.

Sections 1111.19 and 1721.211 of the Revised Code allow prepaid (prearranged or pre-need) burial contracts to establish burial accounts as irrevocable trust funds. A "prepaid burial contract" is an agreement among the recipient, the financial institution, and the funeral director. The agreement directs the financial institution to deliver to the funeral director, upon the recipient's death, the funds from a designated payable-on-death (POD) account which is on deposit at the financial institution. Since prepaid burial contracts can establish either revocable or irrevocable trust funds, it will be necessary for the county agency to evaluate prepaid burial contracts against the criteria of this rule to determine if the funds are inaccessible resources.

(F) Other exclusions from resources

(1) Earmarked resources

Any governmental payments which are designated for the restoration of the home which has been damaged in a disaster, if the AG is subject to a legal sanction if the funds are not used as intended. Examples of payments are those made by the department of housing and urban development (HUD) through the individual and family grant program and disaster loans or grants made by the small business administration.

(2) Prorated income

Resources, such as those of self-employed persons, which have been prorated and counted as income.

(3) Indian lands

Indian lands held jointly with the tribe, or land that can be sold only with the approval of the department of interior's bureau of Indian affairs.

(4) Energy assistance

Energy assistance payments or allowances excluded as income under rule 5101:4-4-13 of the Administrative Code.

(5) Non-liquid assets

Non-liquid assets against which a lien has been placed as a result of taking out a business loan and the AG is prohibited by the security or lien agreement with the lien holder (creditor) from selling the assets.

(6) Property directly related to use and maintenance of vehicles

Property, real or personal, to the extent that it is directly related to the maintenance or use of an income-producing vehicle. Only that portion of real property determined necessary for maintenance or for use of the vehicle is excludable under this rule. For example, an AG that owns a produce truck to earn its livelihood may be prohibited from parking the truck in a residential area. The AG may own a one-hundred-acre field and use a quarter-acre of the field to park and/or service the truck. Only the value of the quarter-acre would be excludable under this rule, not the entire one-hundred-acre field.

(7) Insignificant return of funds

This paragraph does not apply to financial instruments such as stocks, bonds, and negotiable financial instruments. A non-liquid resource, that as a practical matter, the AG is unable to sell for any significant return because the costs of selling the AG's interest would be relatively great shall be excluded as a resource. A resource shall be so identified if its sale or other disposition is unlikely to produce any significant amount of funds for the support of the AG or the cost of selling the resource would be relatively great.

The county agency may require verification of the value of a resource to be excluded if the information provided by the AG is questionable.

(a) In order to identify these kinds of resources, the following definitions shall be used:

(i) "Significant return" means any return, after estimated costs of sale or disposition, and taking into account the ownership interest of the AG, that the county agency determines are more than fifteen hundred dollars; and

(ii) Any "significant amount of funds" means funds amounting to more than fifteen hundred dollars.

(b) Examples of resources that can be affected by this paragraph are:

(i) A non-liquid resource with multiple owners;

(ii) Real estate that requires improvements (such as razing an unusable building to make it suitable for sale);

- (iii) Real estate with liens and encumbrances in amounts large enough to realize no significant return as defined in paragraph (F)(7)(a) of this rule; and
- (iv) Real estate which, after the real estate agent's fee and other costs associated with the sale of property, results in less than a significant amount of funds, as defined in paragraph (F)(7)(a) of this rule.

(c) An AG shall not subdivide a single resource solely to obtain an exclusion under paragraph (F)(7) of this rule. Any subdividing of property solely to obtain an exclusion under paragraph (F)(7) of this rule shall be subject to the transfer of resources provisions of rule 5101:4-4-09 of the Administrative Code.

(8) Individual development accounts (IDAs)

IDAs are excluded regardless of their funding source

(G) Handling excluded funds

Excluded funds that are kept in a separate account and that are not commingled in an account with other non-excluded funds shall retain their resource exclusion for an unlimited period of time. The resources of self-employment AGs that are excluded and are commingled in an account with non-excluded funds shall retain their exclusion for the period of time over which they have been prorated as income. All other excluded monies that are commingled in an account with non-excluded funds shall retain their exemption for six months from the date of commingling. After six months from the date of commingling, all funds in the commingled account shall be counted as a resource.

Effective: 09/01/2013

R.C. 119.032 review dates: 05/09/2013

CERTIFIED ELECTRONICALLY

---

Certification

07/22/2013

---

Date

Promulgated Under: 111.15  
Statutory Authority: 5101.54  
Rule Amplifies: 329.04, 329.042, 5101.54  
Prior Effective Dates: 6/2/80, 12/1/80, 4/1/81, 6/18/81, 1/22/82, 2/12/82, 7/1/82, 9/27/82, 6/1/83, 6/10/83, 8/1/83, 11/1/83 (Temp.), 12/22/83, 12/25/83 (Temp.), 2/1/84 (Temp.), 3/1/84, 3/2/84, 8/16/85 (Emer.), 11/1/85 (Emer.), 1/1/86, 4/11/86 (Emer.), 7/1/86, 8/20/86 (Emer.), 11/15/86, 8/1/87 (Emer.), 10/25/87, 10/1/88 (Emer.), 11/18/88, 1/5/90 (Emer.), 3/22/90, 2/17/91, 5/1/91 (Emer.), 6/1/91, 12/1/91, 7/1/92, 8/1/92 (Emer.), 10/30/92, 8/1/93, 9/1/94, 5/1/95, 2/1/96, 7/1/96, 10/1/96 (Emer.), 12/5/96, 4/1/97 (Emer.), 6/6/97, 8/1/98, 7/15/99, 10/11/02 (Emer.), 12/26/02, 6/1/03 (Emer.), 6/16/03, 6/12/08, 10/1/08 (Emer.), 12/18/08