

Question: Is Rental Income Earned Income?

In most cases this question relates to a beneficiary who owns a house that he/she rents out, or when a beneficiary lives in a house and rents out a room or owns a duplex that he/she lives in and rents out the other unit.

The basic rule of thumb in cases like these is that net rental income counts as unearned income (meaning not subject to FICA per POMS Section RS 02505.240) unless it is earned income from self-employment (e.g., someone who is in the business of renting properties). This is actually stated very clearly for SSI recipients in the POMS at:

<https://secure.ssa.gov/apps10/poms.nsf/lnx/0500830505!opendocument>

Of course, for SSI recipients, unearned income is treated less favorably than earned income since only the \$20 General Income Exclusion is applied to unearned income. In addition, if the SSI recipient owns a home which he/she does not live in because it is rented out, then the property would be a countable resource.

If the SSI recipient is actually self-employed and in the business of renting property, then any Net Earnings from Self-Employment (NESE) the business generates would be decreased by any applicable work incentives when SSA is determining countable NESE. The countable NESE would affect the SSI cash payment in the usual manner.

On the Title II side, it is more complicated. There is no specific citation in the DI section of the POMS saying that rental income is not counted as earned unless the beneficiary is self-employed in the business of renting properties. This is implied when SSA defines what to count by describing earnings or self-employment income as income a person receives in exchange for his/her work activity – it is remuneration for work performed. In most cases, simply renting out one's home or a portion of one's home would not constitute work activity – it is too passive and is not subject to FICA. Unless a beneficiary is engaged in the business of renting property, the money received from renting a single house would typically NOT be considered earned income. If the rental income is not considered to be earned, then it would not be considered when SSA makes TWP or SGA determinations.

Of course, there are times when the situation becomes more complicated. What if the person rents out multiple pieces of property – does that mean the person is in the rental business? SSA must make the decision on a case-by-case basis. They first look to

see if the beneficiary is engaged in “trade or business.” To make this determination, the SSA asks the following questions:

- Is there a good faith intention of making a profit or producing income?
- Is there continuity of operations, repetition of transactions, or regularity of activities?
- Are the functions being performed a regular occupation or profession?
- Is the beneficiary holding himself out to others as being engaged in the selling of goods or services?

(From POMS Section RS 01802.002)

SSA is looking for an overall pattern with these questions. One ‘yes’ answer to these questions is insufficient to make a determination of self-employment, but they need not all be answered with “yes” for self-employment to be determined to exist. If SSA determines that the beneficiary is self-employed, any countable NESE from the business will be considered during TWP and SGA determinations.

REMEMBER: Determinations of what is or is NOT earned income can only be made by SSA. If there is any doubt, refer the beneficiary to the local Social Security Field Office for clarification. If the beneficiary does not agree with the determination rendered by SSA, he/she may request reconsideration as part of the standard appeals process.