



# Seller Guide Update



SEL-2022-060: Multiple Topics

October 7, 2022

- Correspondent Lending
- Housing Finance Agency (HFA)

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## Summary



The following items have recently been updated in the U.S. Bank Correspondent Seller and HFA Division Lending Guides, specific to Loan Delivery, Underwriting and Credit Policy.

### U.S. Bank Correspondent Seller and HFA Division Lending Guides:

Unless notated within each section as Correspondent only policy or based on product availability such as Portfolio products available only in Correspondent, these updates are applicable to both our Correspondent and HFA lenders. The respective sections of the U.S. Bank Correspondent Seller and HFA Division Lending Guides are included in each section. This communication serves to announce changes and updates including an effective date. Always review the U.S. Bank Correspondent Seller and HFA Division Lending Guides for the most current policy. Guidelines are updated with the information in this communication and should be referred to instead of the communication for guidance.

## Underwriting, Delivery, and Product Grids

For overall ease of use, we have enhanced our communications to now include underwriting and delivery method checkboxes to each section when applicable. You'll also find a new grid that outlines the applicable products.

## Effective Date

Immediately unless otherwise noted within each section below.

## Keeping you informed

U.S. Bank continues to closely monitor the ever-changing landscape of our business as a result of the impacts of the coronavirus (COVID-19).

For information about our ongoing work to support our lending partners and customers, we invite you to visit our Correspondent/HFA COVID-19 Resource Page within AllRegs for regular updates and the most current information.

We know you have many questions, and we are diligently working to address each of them. We have developed a list of [COVID-19 Frequently Asked Questions](#) and will continue to update this document on a regular basis to keep you informed of process and policy updates.



## Non-Taxable Income Clarification

Underwriting/Delivery	
<input checked="" type="checkbox"/>	Corr. Delegated
<input checked="" type="checkbox"/>	Corr. Non-Delegated
<input checked="" type="checkbox"/>	Corr. EZD
<input checked="" type="checkbox"/>	Corr. Mandatory
<input checked="" type="checkbox"/>	HFA Delegated
<input checked="" type="checkbox"/>	HFA Non-Delegated
Products	
<input checked="" type="checkbox"/>	Conv. (Freddie)
<input checked="" type="checkbox"/>	Conv. (Fannie)
<input checked="" type="checkbox"/>	Conv. (Portfolio)
<input checked="" type="checkbox"/>	FHA
<input checked="" type="checkbox"/>	VA
<input checked="" type="checkbox"/>	Rural Development

As a clarification to current published policy, these are requirements for treatment of personal income that is not subject to federal income tax. The purpose of this policy is to ensure appropriate and consistent treatment of identified nontaxable income sources in accordance with applicable fair lending laws, regulations, and regulatory guidance; specifically, Section 1002.6(b)(5) of Regulation B and the Interagency Policy Statement on Discrimination in Lending.

### Applying a Gross Up Factor to NTI

The borrower must provide documentation, such as but not limited to Federal Income Tax Returns, to verify that the income is not taxable in order to gross up the tax-exempt income for qualifying. Upon documentation review, if another nontaxable income source is identified that is not listed here, the income should be grossed up consistent with this Policy. The underwriter must always document the source and support the amount of the non-taxable income that was grossed up. If the borrower is not able to provide documentation to evidence that the income is not taxable or the appropriate tax rate cannot be determined, underwriting cannot gross up the income.

Per U.S. Bank Grossing Up Non-Taxable Income Policy, if income is verified through tax returns located in the file, then nontaxable income (NTI) is grossed up by the applicable gross up factor for tax returns (refer to Applicable Gross Up Factors below). Examples include:

- If the borrower has non-taxable income that is reported on the previously filed tax return, the underwriter should use the applicable gross up factor for tax returns or
- If the borrower began receiving non-taxable income during the current year, and they have previously filed a tax return and the return does not contain non-taxable income, the underwriter should use the applicable gross up factor for tax returns.

If income is not verified through tax returns, then the applicable gross up factor (refer to Applicable Gross Up Factors below) must be applied. Examples include:

- If the borrower is not required to file a Federal Income Tax Return, the applicable gross up factor should be used; or
- If the borrower began receiving non-taxable income during the current year, and they have not previously filed a tax return, the underwriter should use the applicable gross up factor.

### Applying a Gross Up Factor to NTI Continued

If income is evaluated before income documentation has been provided, the applicable gross up factor is utilized initially and then adjusted as needed to the customer's actual rate once the documentation is reviewed. If a customer has NTI but has a 0% tax rate due to losses or other factors, the applicable gross up factor is used for NTI sources to help ensure equivalent consideration with taxable income.

The underwriter should utilize only one gross up method noted above for the borrower.

For cases where the DTI is clearly acceptable without grossing-up the income, then grossing-up is not required. Clearly acceptable is defined as an approvable DTI which is beneath the product guidelines' published maximum without grossing-up and grossing-up will have no impact on the customer or loan terms (e.g., high loan amount, lower rate).

### Calculation

The tax rate and grossed up portion of income to be used is calculated as follows:

- the most recent IRS Form 1040 should be used, the rate is calculated by dividing the Total Tax by the Taxable Income to derive the borrower's current tax rate;
- the grossed-up portion of the monthly income amount to be used is calculated by multiplying the non-taxable income amount by the derived current tax rate; and
- the grossed-up portion is added to the gross monthly income for total qualifying income.

**Non-Taxable  
Income  
Clarification,  
continued**

**Applicable Gross Up Factor**

	Fannie Mae	Freddie Mac	Portfolio	FHA	VA	Rural Development
<b>Applicable Gross Up Factor for Tax Returns</b>						
The Borrower provided tax returns	Actual Tax Rate %	Actual Tax Rate %	Actual Tax Rate %	The greater of the Actual Tax Rate % <b>or</b> 15%	Actual Tax Rate %	25%
The Borrower provided tax returns and the Actual Tax Rate is 0%	25%	25%	25%	15%	25%	
<b>Applicable Gross Up Factor</b>						
The Borrower did not provide tax returns	25%	25%	25%	15%	25%	25%

**Income Sources not subject to federal income tax**

Income sources not subject to federal income tax (or likely nontaxable), according to Internal Revenue Service (IRS) guidelines and publications (Publication 525). Sources include:

- Alimony<sup>1</sup>
- Child support
- Foster care or adoption benefits
- Disability or workers' compensation
- Military allowances
- Veterans' benefits
- Social Security benefits<sup>2</sup>
- Pension/Annuities (if nontaxable)
- Public assistance or welfare payments
- Retirement – some federal/state government employee or Railroad Retirement Benefits
- Indian General Welfare benefits

<sup>1</sup> For divorce or separation agreements entered into after December 31, 2018 (or if entered into before that date and the agreement is subsequently changed to expressly provide that alimony received is not included in income).

<sup>2</sup> These benefits may be subject to federal income tax depending on a taxpayer's filing status and other income. If tax returns are not collected to verify the taxable nature of the income, Underwriting should assume it is likely to be nontaxable or may consider current IRS thresholds for when Social Security income may be fully or partially taxable.

**Income Analysis Worksheet Manual**

The Income Analysis Worksheet Manual has been updated to include instructions to facilitate correct gross-up calculations for the various products.

**Guide Updates:** 711.4 FHA – Effective Income, 712.6 VA – Effective Income, 713.7 Agency – Effective Income, 714.2.2.3 Portfolio – Non-Employment Related Borrower Income, 715.4 Rural Development – Effective Income

## Natural Disaster Procedures Reminder - Hurricane Ian

Underwriting/Delivery	
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<input checked="" type="checkbox"/>	Conv. (Freddie)
<input checked="" type="checkbox"/>	Conv. (Fannie)
<input checked="" type="checkbox"/>	Conv. (Portfolio)
<input checked="" type="checkbox"/>	FHA
<input checked="" type="checkbox"/>	VA
<input checked="" type="checkbox"/>	Rural Development

In anticipation of Hurricane Ian, we are sending a reminder of U.S. Bank's standing policy regarding procedures for areas impacted by a natural disaster. It is the responsibility of the Lenders to monitor areas in their regions that are impacted and to follow the procedures outlined below.

- **Natural Disaster Area Definition:** Natural Disaster Areas are geographic areas identified as "Presidentially Declared Disasters" on the FEMA website as having Individual Assistance. U.S. Bank monitors the FEMA website and will issue a communication with the impacted counties when the disaster meets the definition.
- **Natural Disaster Incidence Date:** The Natural Disaster Incidence date is the equivalent of the FEMA Declaration date found on the FEMA website.
- **Reinspection Requirements:** Agency, Portfolio, VA, and RD loans with subject properties located in the impacted counties that have not CLOSED by the Disaster Declaration Date must follow the requirements listed in in AllRegs.

FHA loans with subject properties located in the impacted counties that have not been ENDORSED as of the Disaster Declaration Date must follow the FHA requirements listed in AllRegs.

**Guide Updates:** 711.20 FHA – Natural Disaster Procedures, 712.21 VA - Natural Disaster Procedures, 713.20 Agency – Natural Disaster Procedures, 714.1.10 Portfolio – Appraisal, 715.20 RD - Natural Disaster Procedures

## Disaster Area Declarations

Underwriting/Delivery	
<input checked="" type="checkbox"/>	Corr. Delegated
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<input checked="" type="checkbox"/>	Corr. Mandatory
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<input checked="" type="checkbox"/>	FHA
<input checked="" type="checkbox"/>	VA
<input checked="" type="checkbox"/>	Rural Development

The following counties and areas in Florida have been declared as Presidential Disaster Areas with Individual Assistance.

- Agency, Portfolio, VA, and RD loans with subject properties located in the areas listed below that have not CLOSED by the Disaster Declaration Date must follow the requirements listed in in AllRegs.
- FHA loans with subject properties located in the areas listed below that have not been ENDORSED as of the Disaster Declaration Date must follow the FHA requirements listed in AllRegs.

Declaration Date	State	County
September 29, 2022	FL	<p><b>New:</b></p> <p>Flagler, Highlands, Lake, Orange, Osceola, Polk, Putnam, Seminole, St. Johns, Volusia</p> <p><i>Indian Reservations:</i> Big Cypress, Brighton, Fort Pierce, Hollywood, Immokalee, Tampa</p> <p><b>Previously published in SEL-2022-058:</b></p> <p>Charlotte, Collier, DeSoto, Hardee, Hillsborough, Lee, Manatee, Pinellas, Sarasota, Miccosukee Tribe</p>

Guide Section: 711.20 FHA – Natural Disaster Procedures, 712.21 VA - Natural Disaster Procedures, 713.20 - Natural Disaster Procedures, 714.1.10 - Natural Disaster Procedures, 715.20 RD - Natural Disaster Procedures

## Questions



**Correspondent:** Please contact your Account Executive or the Client Support Area at 800.200.5881, option 1.

**HFA:** Please contact the Housing Finance Agency Hotline at 800.562.5165, option 1 for the HFA Customer Care Team.