
POLICY TRANSMITTAL NO. 07-28	DATE: JUNE 22, 2007
FAMILY SUPPORT SERVICES DIVISION	DEPARTMENT OF HUMAN SERVICES OFFICE OF LEGISLATIVE RELATIONS AND POLICY

TO: ALL OFFICES

SUBJECT: MANUAL MATERIAL

OAC 340:50-7-30.

EXPLANATION: **Policy revisions were approved by the Commission and the Governor as required by the Administrative Procedures Act.**

OAC 340:50-7-30 revisions: (1) simplify how self-employed farm income and business expenses are considered; (2) revise language regarding tax forms used to determine self-employment income; (3) specify how profit sharing income is treated; and (4) remove obsolete language.

Original signed on 6-21-07

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WF # 07-09 (NAP)

INSTRUCTIONS FOR FILING MANUAL MATERIAL

OAC is the acronym for Oklahoma Administrative Code. If OAC appears before a number on an Appendix or before a Section in text, it means the Appendix or text contains rules or administrative law. Lengthy internal policies and procedures have the same Chapter number as the OAC Chapter to which they pertain following an "OKDHS" number, such as personnel policy at OKDHS:2-1 and personnel rules at OAC 340:2-1. The "340" is the Title number that designates OKDHS as the rulemaking agency; the "2" specifies the Chapter number; and the "1" specifies the Subchapter number.

The chronological order for filing manual material is: (1) OAC 340 by designated Chapter and Subchapter number; (2) if applicable, OKDHS numbered text for the designated Chapter and Subchapter; and (3) all OAC Appendices with the designated Chapter number. For example, the order for filing personnel policy is OAC 340:2-1, OKDHS:2-1, and OAC 340:2 Appendices behind all Chapter 2 manual material. Any questions or assistance with filing manual material will be addressed by contacting Policy Management Unit staff at 405-521-4326.

REMOVE

340:50-7-30

INSERT

340:50-7-30, pages 1-5, revised 7-1-07

340:50-7-30. Self-employed households

Households whose income is derived either wholly or in part from a self-employment enterprise are treated in accordance with the procedures listed in paragraphs (1) through (9) of this Section. ■1

(1) **Capital gains.** The proceeds from the sale of capital goods or equipment is income for program purposes and is calculated in the same manner as a capital gain for federal income tax purposes. Even though a percentage of the proceeds from the sale of capital goods or equipment is taxed for federal income tax purposes, the worker counts the full amount of capital gain as income.

(2) Profit sharing. Households who operate S corporations, general or limited partnerships, or limited liability companies may receive profit sharing that is reported on the household's personal income tax return. When a household member:

(A) actively participates in the operations, the income from profit sharing is considered part of the household's self-employed earned income; or

(B) does not actively participate in the operations, the income from profit sharing is considered part of the household's unearned income.

(3) Self-employed farm income. To be considered a self-employed farmer, the farmer must receive or anticipate receiving annual gross proceeds of \$1,000 or more from the farming enterprise.

(A) Farming is defined as cultivating or operating a farm for profit either as owner or tenant.

(B) A farm includes stock, dairy, poultry, fish, fruit, and truck farms, and plantations, ranches, ranges, and orchards.

(i) A fish farm is an area where fish are grown or raised and where they are artificially fed, protected, and cared for, and does not include an area where they are only caught or harvested.

(ii) A plant nursery is a farm for purposes of this definition.

(4) **Monthly self-employment income.** Self-employment income received on a monthly basis but which represents a household's annual support is normally averaged over a 12-month period. If the averaged amount does not accurately reflect the household's actual monthly circumstances because the household has

experienced a substantial increase or decrease in business, the worker calculates the self-employment income based on anticipated earnings.

(5) **Seasonal self-employment income.** Self-employment income intended to meet the household's needs for only part of the year is averaged over the period of time it is intended to cover. For example, the income of self-employed vendors who work only in the summer and supplement their income from other sources during the balance of the year is averaged over the summer months rather than a 12-month period.

(6) **Annualized self-employment income.** Self-employment income which represents a household's annual support must be annualized over a 12-month period, even if the income is received in a shorter period of time. For example, self-employment income received by crop farmers must be averaged over a 12-month period if the income represents the farmer's annual support.

(A) If the averaged annualized amount does not accurately reflect the household's actual circumstances because the household has experienced substantial increase or decrease in business, the worker calculates the self-employment income on anticipated earnings.

(B) The worker does not calculate self-employment income on the basis of prior earnings such as income tax returns when an increase or decrease of business has occurred.

(i) If the household's self-employment enterprise has been in existence for less than a year, the income from that self-employment enterprise must be averaged over the period of time the business has been in operation and the monthly amount projected for the coming year.

(ii) If the business has been in operation for a short time and there is insufficient data to make a reasonable projection, self-employment income is recomputed at each new certification until a full year's information is available. ■ 2

(7) **Anticipated income.** When a household who would normally have the self-employment income annualized experiences a substantial increase or decrease in business, the worker calculates the self-employment income based on anticipated earnings.

(A) For those households whose self-employment income is calculated on an anticipated basis, the worker adds any capital gains the household anticipates it

will receive in the next 12 months, starting with the date the application is filed, and divides this amount by 12. This amount is used in successive certification periods during the next 12 months except that a new average monthly amount must be calculated over this 12-month period if the anticipated amount of capital gain changes.

(B) The worker adds the anticipated monthly amount of capital gains to the anticipated monthly self-employment income, and subtracts the cost of producing the self-employment income.

(8) Determining net monthly self-employment income. Self-employment income is not compared to the maximum gross income standards shown on Oklahoma Department of Human Services (OKDHS) Appendix C-3, Maximum Food Stamp Allotments and Standards for Deductions, Maximum Income, and Utilities, until after the business expenses have been deducted from the gross self-employment income.

(A) To determine the net monthly self-employment income, the worker:

(i) adds all the gross self-employment income, including capital gains;

(ii) subtracts 50% of the gross self-employment income for a household declaring business expenses or uses the net profit for the most recent tax year as reported on the person's income tax return; and **3**

(iii) divides the net self-employment income by the number of months to be averaged.

(B) The monthly net self-employment income is added to all other earned income received by the household.

(i) The total monthly earned income less the earned income deduction according to OKDHS Appendix C-3 is then added to all other monthly income received by the household.

(ii) The standard deduction, dependent care, and shelter costs are computed as for any other household and subtracted to determine the monthly net income of the household.

(9) Household with income from boarders. A household that operates a commercial boarding house may be considered a food benefit household and self-employed as shown in paragraph (8) of this subsection. A household with

boarders or roomers that is not a commercial boarding house may receive food benefits as shown in subparagraphs (A) through (C) of this paragraph.

(A) Persons paying a reasonable amount for room and board are excluded from the household when determining the household's eligibility and benefit level. Payments from the boarder are treated as self-employment income if the boarder is paying a reasonable amount.

(i) The income from boarders includes all direct payments to the household for room and meals, including contributions to the household for part of the household shelter expense.

(ii) Shelter expenses paid directly by boarders to someone outside the household are not counted as income to the household.

(B) After determining the income received from the boarder, the worker excludes 50% of the boarder payment as the cost of doing business.

(C) The net income from self-employment is included with other earned income and the earned income deduction from OKDHS Appendix C-3 is taken.

(i) Shelter cost the household actually incurred, even if the boarder contributes to the household for part of the household's shelter expense, is computed to determine if the household will receive a shelter deduction.

(ii) The shelter and utility cost must not include any expense billed to and directly paid by the boarder to a third party.

INSTRUCTIONS TO STAFF 340:50-7-30

1. To be considered self-employed, the person must:

(1) state he or she is self-employed;

(2) be eligible to file federal and state taxes as a self-employed person. A person who owns an interest in a corporation does not qualify as self-employed because the person does not have business expenses;

(3) not have an employer/employee relationship with another entity; and

(4) have the potential to realize a profit or loss.

2. To average the income and expenses for a self-employment enterprise that has not been in business for a full year, the worker divides the total income by the number of months in business. For example, a self-employment business has been in operation from February 18 to the application month of November. The income is averaged for 9 months, February through October. It is correct to count the first month of business through the last complete month when computing an annualized figure for a new business.

3. (a) Self-employment income tax return forms include but are not limited to:

(1) Form 1040 with Schedule C for sole proprietors and some limited liability companies;

(2) Form 1065 with Schedule 8865 K-1 for partnerships;

(3) Form 1120-S with Schedule K-1 for S corporations; or

(4) Form 1040 with Schedule F for farmers.

(b) When the client has previously filed an income tax return as a self-employed person, the worker determines whether using the 50% business expense deduction or the net as shown on the income tax return is best for the client. If the client has not filed an income tax return but declares business expenses, the worker allows 50% of the gross income as the standard business expense.