

# SI 01130.501 Essential Property Excluded Regardless of Value or Rate of Return

## A. POLICY PRINCIPLES

### 1. The Exclusion

The properties described in 2, 3, and 4 below are excluded as essential to self-support regardless of value or rate of return. However, they must be in current use or, if not in use for reasons beyond the individual's control, there must be a reasonable expectation that the required use will resume.

### 2. Trade Or Business Property

Property essential to self-support used in a trade or business is excluded from resources regardless of value or rate of return effective May 1, 1990. See [SI 01130.503](#) for periods of eligibility before that date.

### 3. Government Permits

Government permits represent authority granted by a government agency to engage in income producing activity. Examples are commercial fishing permits granted by a State Commerce Commission and tobacco crop allotments issued by the U.S. Department of Agriculture.

### 4. Personal Property Used By An Employee

Personal property used by an employee for work is excluded from resources beginning May 1, 1990. For periods before that date such items were excluded if they were required by the individual's employer. Excluded items include tools, safety equipment, uniforms, etc.

## B. DEVELOPMENT AND DOCUMENTATION — GENERAL

The rules in C., D., and E. below apply unless development can be eliminated in accordance with [SI 01130.500 C.](#)

## **C. DEVELOPMENT AND DOCUMENTATION — PROPERTY USED IN A TRADE OR BUSINESS**

### **1. Trade Or Business Not Being Excluded**

When an individual alleges owning trade or business property not already being excluded, consider if a valid trade or business exists, and if the property is in current use (see [SI 01130.504](#)). Obtain a statement giving the information below. Absent evidence to the contrary, accept the responses to items a.-d. Verify e. with the business tax returns.

- a. a description of the trade or business;
- b. a description of the assets of the trade or business;
- c. the number of years it has been operating (see 4. below);
- d. the identity of any co-owners;
- e. the estimated gross and net earnings of the trade or business for the current tax year (see 3. below).

### **2. Redetermination Of Excluded Trade Or Business Property**

Consider current use of the property in the trade or business. Obtain and verify the individual's allegations as to the estimated gross and net earnings of the trade or business for the current tax year for income purposes (see [SI 00820.230](#)).

### **3. Use Of Tax Returns**

#### **a. Use Most Recent Tax Return**

Obtain a copy of the business tax return (i.e., Form 1040 and the appropriate schedules) for the tax year prior to the application or redetermination. Use the return to determine the net earnings from self-employment and validity of the trade or business. The following can be particularly helpful:

- Schedule C, Profit or Loss from Business or Profession;
- Schedule SE, Computation of Social Security Self-Employment;
- Schedule F, Farm Income and Expenses;
- Form 4562, Depreciation and Amortization; and
- Form 1065, U.S. Partnership Return of Income.

#### **b. Current Tax Return Not Available**

If the current tax return is not available, obtain a copy of the latest tax return available.

### **4. Questionable Trade Or Business**

If a trade or business has operated a year or less, or there is a question of bona fides, develop in accordance with [RS 01802.002](#)-.010 to determine whether a trade or business actually exists.

## **5. Liquid Resources Used In A Trade Or Business**

Effective May 1, 1990, all liquid resources used in the operation of a trade or business are excluded as property essential to self-support. Obtain an individual's signed allegation that liquid resources are used in the trade or business.

# **D. DEVELOPMENT AND DOCUMENTATION — GOVERNMENT PERMITS**

## **1. Individual's Statement**

### **Permit Alleged**

If an individual alleges owning a government license, permit, or other property that represents government authority to engage in an income producing activity, and that has value as a resource, obtain his or her signed statement as to:

- the type of license, permit or other property;
- the name of the issuing agency, if appropriate;
- whether the law requires such license, permit, or property for engaging in the income producing activity at issue; and
- how the license, permit, or other property is being used; or
- if it is not being used, why not.

If the property is not being used, see [SI 01130.504](#) for development.

## **2. Supporting Evidence**

Have the individual submit a copy of the license, permit and/or other pertinent documents. For example, an individual engaged in fishing in Alaska would have to have a permit. In North Carolina, a person growing flue-cured tobacco would have to have a “marketing sales card” to sell it. If the individual cannot submit the necessary evidence, verify his or her allegations with the issuing agency. Do this by telephone if possible.

## **3. Common Government Permits**

### **a. Alaska Limited Entry Fishing Permit (ALEFP)**

An ALEFP is one of the two most commonly encountered types of property representing required government authority to engage in an income producing activity.

Alaska's Commercial Fisheries Entry Commission first issued ALEFP's in 1973 to control commercial salmon fishing. These permits are required for individuals who engage in the fishing trade.

We are aware of such permits only in Alaska. Should one surface elsewhere, contact the Seattle RO through your own RO to obtain regional instructions concerning it.

### **b. Tobacco Crop Allotment (TCA)**

The TCA is the other most commonly encountered type of property representing government authority to engage in an income producing activity. It is issued by the U.S. Department of Agriculture's Agricultural Stabilization and Conservation Service. It is required for the growing and selling of flue-cured tobacco, which is grown mostly in the southeastern United States. Do not confuse a TCA with a price support or subsidy, or a soil bank program.

Exclude a TCA only when the grower who has it is restricted to growing a certain quantity of the crop.

FO's in the Atlanta region should refer to regional TCA instructions. Should a TCA surface outside the Atlanta region, contact the Atlanta RO through your own RO to obtain additional information.

## **E. DEVELOPMENT AND DOCUMENTATION — PERSONAL PROPERTY USED BY AN EMPLOYEE**

### **1. Individual's Statement**

If an individual alleges owning items that are used in his or her work as an employee; or, for months of eligibility before May 1, 1990, that his or her employer required he or she provide as a condition of employment, obtain his or her statement to include:

- the name, address, and telephone number of the employer;
- a general description of the items;
- a general description of his or her duties; and
- whether the items are currently being used.

If the individual is temporarily not working (e.g., job loss, seasonal employment), or the property is not otherwise in current use, see [SI 01130.504](#).

### **2. Supporting Evidence**

Absent evidence to the contrary, accept the individual's statement.

