

# CHAPTER 3 – INCOME QUALIFYING TENANTS

## The Tenant Eligibility Certification Process

### Section 3A - Overview of Tenant Certification Process

#### Part 300 : General Overview of Tenant Certification : Procedures

A household's eligibility to reside in low-income/restricted units must be certified. Documentation of household income and composition must be obtained. The income of a household must be within program guidelines and the rent amount must be restricted. See **Chapter 4** (Income Limits, Rent Restrictions, and Utility Allowances) for more information. Tenant income must be calculated in a manner consistent with the determination of income under Section 8 of the United States Housing Act 1937 ("HUD Section 8"), **not** in accordance with the determination of gross income for federal income tax liability. HUD Handbook 4350.3 (Section 8 Multifamily Guidelines) outlines the methodology that must be used in determining tenant and household income, as discussed in **Part 302**.

An overview of the initial eligibility certification procedures is as follows:

1. Prospective tenant households should complete a **rental application** (see **Part 614**).
2. The head of household and every adult member of the household (i.e. any person age 18 and over) must complete a **Checklist** (which is available on the MSHDA website and discussed in **Part 616**). The checklist identifies all income sources and assets held by the tenant or prospective resident.
3. Each adult household member should sign a **Consent to Release Information** form, which is discussed in **Part 634** (Consent to Release Information form).
4. **Verifications** for every item marked "yes" by the resident on the checklist must be obtained by the owner/management. See **Parts 328 - 342** (Verifying Income and Assets) for more information.
5. The owner/management should **date stamp** all completed verification forms when received from the third party employer, bank, or other source.
6. The owner/management agent must determine household income in accordance with the guidelines outlined in the **HUD 4350.3** (discussed in **Part 302**).
7. Once all the income and asset verifications have been obtained, management must prepare a **Tenant Income Certification** form (which is available on the MSHDA website and discussed in **Part 618**) for each household.

8. The household's income must be within LIHTC guidelines and the unit must be rent restricted. **Income limits, rent restrictions, and utility allowances** are discussed in **Chapter 4** of this Manual.
9. In addition to being income-qualified, a tenant/household must meet all applicable **household composition and demographic** requirements (such as student eligibility, age restrictions for elderly projects, etc.) in order to be eligible to reside in a LIHTC unit. For additional information about these requirements, see **Chapter 5** (Household Composition and Demographics).
10. A **lease agreement** must be executed. See **Part 622** (Overview of LIHTC Lease Requirements) for more information.
11. The owner/management agent must maintain a **tenant / unit file**, as discussed in **Part 646**.
12. The owner/management agent must enter household data into **MSHDA's Online Tenant Data Reporting System**, which is discussed in **Part 700**.
13. **Recertifications** are discussed in **Part 352** (Overview of Annual Recertifications).

For a related topic, see **Part 346** (Move-in Dates and Effective Dates of Initial Certifications).

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**Part 302**    :: HUD Handbook 4350.3 (latest version)

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For the purpose of determining eligibility for occupancy in a restricted unit, the incomes of individuals must be determined in a manner consistent with the determination of annual income under Section 8 of the U.S. Housing Act of 1937, as amended. **Chapter 5 of HUD Handbook 4350.3 "Occupancy Requirements of Subsidized Multi-family Housing Programs"** describes the calculation methodology for income and assets and income inclusions and exclusions. A copy of the Handbook can be obtained at [www.hud.gov/offices/adm/hudclips](http://www.hud.gov/offices/adm/hudclips) (select "handbooks", then "housing handbooks" (or successor URL). A link to the Handbook is available on the MSDHA website. Frequently used portions of the HUD 4350.3 are as follows:

- 5-6    Calculating Income – Elements of Annual Income
- 5-6Q    Exclusions from Income
- 5-7    Assets

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## Section 3B - Income

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*This Section provides a brief overview of how to calculate income. Owners/managers should thoroughly review the income rules and guidance provided in the **HUD Handbook 4350.3** (latest version), “Occupancy Requirements of Subsidized Multi-family Housing Programs”, which is described in **Part 302** of this Manual.*

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### Part 304 : Income, Definition of

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Annual income for the LIHTC Program is defined as the gross amount of income anticipated to be received by members of the household during the 12 months following the date of certification or recertification. Annual income includes all amounts received by, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member, unless the income is excluded as discussed in HUD 4350.3, 5-6(Q) or another portion of the HUD 4350.3.

Annual income has two components: regular income and asset income.

- Regular income is income received from traditional sources, such as, gross wages, salaries, tips, social security, pensions, unemployment compensation, and child support.
- Asset income is income derived from savings accounts, interest-bearing checking accounts, real estate, and other investments.

As stated in the HUD 4350.3, although the definitions of annual income used for the programs covered in this handbook (and the LIHTC Program) have some similarities with rules used by the U.S. Internal Revenue Service (IRS), the tax rules are different from the HUD program rules.

Also as stated in the HUD 4350.3, annual income includes all amounts that are not specifically excluded by regulation. In other words, if a particular type of income is not specifically identified as being excluded, then it must be counted as income for LIHTC purposes. Exhibit 5-1, Income Inclusions and Exclusions, provides the complete list of income inclusions and exclusions published in the regulations and *Federal Register* notices.

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### Part 306 : Gross Income versus Net or Adjusted Income

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*This Part is intended as a brief, generalized overview of topics that are not currently covered in the HUD 4350.3 in sufficient detail and about which many questions have been received by MSHDA from owners, management agents and residents of LIHTC developments. There may be variances in how different types of allowances and expenses are characterized and handled. Therefore, each particular situation must be evaluated individually. Any subsequently-issued information published by the IRS or HUD related to these topics will supersede the positions presented in this Part.*

Allowances and deductions such as child care allowance, elderly household allowance, medical expense deduction, dependent allowance, and handicapped assistance allowance that are commonly used in some government housing programs (e.g. HUD Section 8 Program), may not be subtracted from the household's gross income to determine income eligibility for low-income/restricted units. Further, deductions such as income taxes, social security taxes, and insurance premiums that are subtracted from income to arrive at net taxable income are not used in determining gross income for LIHTC purposes. The household's gross income amount, not the adjusted or net income amount, is used for determining LIHTC eligibility. Gross Income does not include certain types of monetary receipts that are specifically excluded as income in the HUD 4350.3 (Part 5-6Q).

Deductions from pay for such things as union dues and fringe benefits such as medical insurance are not excluded from gross income (i.e. must be included as part of household income). For example:

*Tim earns gross wages in the amount of \$200 per week. He pays \$10 per week for union dues and \$25 per week for health insurance, both of which are deducted from his paycheck. Neither the union dues nor the cost of the health insurance can be excluded (subtracted) from Tim's gross income calculation for LIHTC purposes, regardless of whether the deductions are optional or mandatory.*

Allowances that sometimes appear on pay statements such as car allowances and work uniform cleaning allowances are not excluded (subtracted) from gross income if those amounts are not reimbursements based on the actual expenses incurred and the tenant has discretion over how to use all or a portion of these funds. For examples,

*Steve works for a restaurant and is required to wear a uniform. The employer pays Steve an extra \$25 per month to cover the cost of cleaning the uniform. Steve's actual cleaning expense is less than \$25 per month since he elects to launder the uniforms himself rather than have them professionally cleaned. Tim's employer does not require that he provide documentation on how the \$25 was spent or that he return any unused portion of the \$25 allowance. Since Tim has discretion over the use and amount of the allowance provided, the entire \$25 must be included as part of his annual income.*

*Chris works as a health care aide for a company that provides home-based services. As part of her job, she must travel to different homes throughout the city. Her employer gives her \$300 per month as a car allowance, which appears in her paycheck. She uses her personal car for work and her gas and maintenance expense vary from month to month. Her employer does not require that she return the portion of the \$300 allowance that she does not expend each month. Chris is not required to complete a travel expense reimbursement request form for her employer and she has discretion over how to use the unused portion. The \$300 allowance must be included as part of Chris' gross income for LIHTC purposes.*

Travel reimbursements based on the actual expense incurred by the employee are not included as part of annual income.

The *value* of fringe benefits provided by an employer, such as health club memberships and medical insurance are not included as part of household income (nor is the value subtracted from annual income). For example:

*Mary's gross wages are \$15,000 per year. As a fringe benefit, her employer also provides her with a free membership to a local fitness club, valued at \$65 per month. The cost of the membership is paid by her employer directly to the health club. Even if Mary elects not to use the free gym membership, her employer will not give her the \$65 in cash as an alternative. Since Mary does not receive the \$65 in her pay, she does not have discretion over the use of the \$65. The value of the \$65 gym membership is not added to Mary's household income for LIHTC purposes (nor is the \$65 subtracted from her gross income if she elects not to use the membership).*

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**Part 308**    **Projected Income vs. Past Actual Income**

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As of the date of issuance of this Compliance Manual, it appears that HUD's September 2009 Rule (discussed below) is NOT applicable to the LIHTC Program, which is not a public or assisted housing program. LIHTC projects must continue to project income based on the upcoming 12-month period, except where other methods are specified in the HUD 4350.3.

HUD's Rule entitled "Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs" became effective on September 30, 2009. This rule permits the use of actual or past actual income as the method of determining annual income for public and assisted housing programs, based on either:

- Actual income being received (projected forward for a 12-month period); or
- Past actual income received or earned within the last 12 months of the determination date when:
  - Family reports little or no income; or
  - The owner/manager is unable to determine annual income due to fluctuations in income such as seasonal or cyclical income; the owner/manager may average past actual income received or earned within the last 12 months to calculate annual income.

For information about topics related to zero income and anticipated income, see **Part 376** (Certifying Tenants with Zero Income) and **Part 392** (Anticipated Income).

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**Part 310**    **Calculating Total Household Income**

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After all income and asset information has been obtained, all sources of income are added together to calculate the total household income. The total household income must be less than or equal to the maximum allowable income limit in effect at the time of tenant certification for the household to initially qualify for a restricted unit. If the total household income is greater than

the maximum allowable income limit, the household is not eligible to reside in a restricted unit. All income and assets are summarized on the **Tenant Income Certification** (TIC) form, which is discussed in **Part 618**. For a related topic, see **Part 312** (Rounding).

Income Limits are discussed in Chapter 4 of this Compliance Manual.

Specific types of income sources are discussed beginning in **Part 366** of this Compliance Manual.

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## Section 3C – Mathematical Considerations

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MSHDA has adopted the calculation practices outlined in the ***HUD Handbook 4350.3***, Part 5-5 (Methods for Projecting and Calculating Annual Income), including:

- Methods of calculating projected annual income
- Methods of converting periodic wages to annual income
- Approaches to determining the amount of irregular employment income

In addition to the topics in this Section of the Michigan Compliance Manual, see the following for related discussions:

**Part 308** (Projected Income vs. Past Actual Income)

**Part 310** (Calculating Income from Assets)

**Part 392** (Anticipated Income)

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### Part 312    : Rounding

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#### **Subpart 312A - Income Limits and Rounding**

MSHDA uses a straight mathematical figure (without rounding) based on the 50% AMGI figures for the LIHTC Program, as discussed in **Part 400** (Overview of Income Limits for LIHTC Projects). In contrast, HUD rounds to the nearest \$50 to arrive at income figures. Owners/management agents are required to use the income limit figures published by MSHDA. Self-generated income limit figures cannot be used by owners, managers, or developments for LIHTC purposes.

#### **Subpart 312B – Rent Limits and Rounding**

Owners/management agents are required to use the rent limit figures published by MSHDA. Rent amounts paid by tenants cannot exceed the maximum allowable by even \$.01. See **Chapter 4, Section 4B** (Maximum Gross Rent) for additional information about rent limits.

#### **Subpart 312C – Household Income and Asset Amounts and Rounding**

A household's income must be less than or equal to the maximum income figure. An income amount that exceeds that income limit by even \$.01 is over-income. Consistency is required when rounding.

<b>Rounding of Household Income and Asset Figures</b>						
<b>Income Sources</b>	<b>Actual Amount as Verified (no rounding)</b>	<b>Arithmetic Rounding at end only (down if .49 or below; up at .50+)</b>	<b>Round-Up at end only (to the next whole number)</b>	<b>HUD 4350.3 Appendix 8 - Rounding throughout (down if .49 or below, up at .50+)</b>	<b>Round-Up all figures throughout, up to nearest whole number</b>	<b>Truncate (chop off all cents)</b>
<b>Annuity</b>	<b>\$6,234.15</b>	\$6,234.15	\$6,234.15	\$6,234.00	\$6,235	\$6,234
<b>Pension #1</b>	<b>\$1,534.49</b>	\$1,534.49	\$1,534.49	\$1,534.00	\$1,535	\$1,534
<b>Pension #2</b>	<b>\$3,148.98</b>	\$3,149.98	\$3,148.98	\$3,149.00	\$3,149	\$3,148
<b>Social Sec.</b>	<b>\$6,521.08</b>	\$6,521.08	\$6,521.08	\$6,521.00	\$6,522	\$6,521
<b>Wages</b>	<b>\$2,500.50</b>	\$2,500.50	\$2,500.50	\$2,501.00	\$2,501	\$2,500
<b>Total</b>	<b>\$19,939.20</b>	\$19,939.00	\$19,940	\$19,939.00	\$19,942	\$19,937
	<i>Acceptable</i>	<i>Unacceptable*</i>	<b>The Preferred Method</b>	<i>Unacceptable (except for HUD Projects)</i> **	<i>Acceptable***</i>	<i>Unacceptable</i>

*\*The Arithmetic Method involves rounding down when cents are .49 or below and rounding up when cents are .50 or above. This method is unacceptable (unless used in a LIHTC project that also has another government funding source that mandates use of Arithmetic Rounding), because, as illustrated in the above example, if the income limit for the development was \$19,939, the household would be over-income because its actual income is \$19,939.20, which exceeds the income limit by \$.20. The Arithmetic Method erroneously gives the appearance that the household's income meets the income limit.*

*\*\*The HUD 4350.3 Method involves rounding down when cents are .49 or below and rounding up when cents are .50 or above. This method is unacceptable for LIHTC purposes, unless required by and used in conjunction with a HUD program at the project, such as Section 8. This method of rounding should not be used in non-HUD financed projects. As illustrated on the chart above, the actual income as verified is \$19,939.20, while the 4350.3 rounding methods yields \$19,939.00. If the income limit were \$19,939.00, the household would actually be over-income by \$.20.*

*\*\*\*The Round-Up All Method involves rounding all figures with cents up to the nearest whole number. This method is acceptable only if it is done consistently throughout the income/asset calculation for all tenants at the development. Note that this method could potentially result in a household with income that is very close to the income limit being deemed over-income. If the income limit was \$19,940, a household's income that was calculated at \$19,942 using the Round-Up All Method would be deemed as "over-income" by the owner/management agent,*

while the household would be income-eligible if the Preferred Method of Rounding had been used.

For related topics, see [Part 310](#) (Calculating Total Household Income) and [Part 618](#) (Tenant Income Certification Form).

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## Part 314 :: Ranges and Averaging

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When the written verification form returned by the third party source provides only a **range** for the number of work hours or earnings amount, the owner/management agent should first contact the third party source and obtain a more specific estimate. If a specific estimate cannot be obtained, it is permissible to use the **average** (mean) figure for purposes of calculating projected household income amount. For example:

*Don is applying for a LIHTC unit at ABC Apartments. His employer completed a third party verification form and indicated that the number of hours he works varies between 30 and 40 hours per week. After receiving the third party verification, the owner/management agent contacted the employer, but the employer was unable to provide a more specific number. In determining whether Don is income-eligible for the LIHTC unit, the owner/management agent can use 35 hours in calculating his employment earnings.*

Note: It is also acceptable for an owner/manager to elect to use the highest (upper) figure in the range, which is the most conservative method (from the perspective of assuring that the household's income does not exceed the income limit). However, use of the highest figure in a range could result in some households being deemed as over-income who might have been income-eligible if the average were used.

For additional information about verifications, see [Part 328](#) (Overview of Methods of Verifying Income and Assets).

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## Part 316 :: Income Computations and Projections

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*The following discussion was taken from the HUD 4350.3.*

A. To annualize full-time employment, multiply:

- hourly wages by the number of hours worked per year;  
 $\$5.00 \text{ per hour} \times 2080 \text{ hours per year} = \$10,400 \text{ annual wages}$  or  
 $\$5.00 \text{ per hour} \times 40 \text{ hours per week} \times 52 \text{ weeks} = \$10,400 \text{ annual wages}$
- weekly wages by 52;  
 $\$190 \text{ per week} \times 52 \text{ weeks} = \$9,880 \text{ annual wages}$
- bi-weekly wages by 26;  
 $\$500 \text{ biweekly} \times 26 \text{ pay periods per year} = \$13,000 \text{ annual wages}$
- semi-monthly wages by 24; or  
 $\$400 \text{ paid twice a month} \times 24 \text{ pay periods} = \$9,600 \text{ annual wages}$

- monthly amounts by 12.  
 $\$1,000 \text{ paid monthly} \times 12 \text{ months} = \$12,000$

B. To annualize income from other than full-time employment, multiply:

- hourly wages by the anticipated number of hours to be worked annually;
- average weekly amounts by the anticipated number of weeks to be worked annually; or
- other periodic amounts (monthly, bi-weekly, etc.) by the anticipated number of periods to be worked.

C. Short-Term or Temporary Income

- Income that cannot be anticipated for a full 12 months (such as unemployment compensation) must be calculated assuming current circumstances will last a full 12 months unless there is an imminent or foreseeable change in the future that would cause the income calculation to be greater

*For example, if the applicant/tenant is currently unemployed but will be starting work soon, owners/managing agents should use the person's unemployment compensation to the point of the start date of employment and then calculate the employment income from that point forward to the end of the certification period.*

D. Other Notes

- Annual wages should always reflect a full 12-month period, regardless of the pay schedule.  
*For example, if a schoolteacher earns a gross annual salary of \$17,000, the \$17,000 must be used as annual salary, regardless of whether the teacher is paid over only nine months or throughout the year.*
- When analyzing income, year-to-date income must be considered and then compared to the wage/salary calculation.
- When annualizing year-to-date income, owners/managing agents may either round the number of weeks down to a whole week or use fractional weeks carried out one decimal place (i.e. 13.47 would round to 13.5 weeks).

For a similar discussion, see **Part 320** (Example of Calculating Income from Assets).

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## Section 3D - Assets

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This Section provides a brief overview of how to value and calculate income from assets. Owners/managers should thoroughly review the asset rules and guidance provided in the **HUD Handbook 4350.3** (latest version), "Occupancy Requirements of Subsidized Multi-family Housing Programs", which is discussed in **Part 302** of this Compliance Manual.

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### Part 318 : Assets

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The cash value of assets and the income from assets must be taken into consideration when determining the eligibility of a household.

What is an Asset?

- Assets are items of value that may be turned into cash. A savings account is a cash asset. The bank pays interest on the asset. The interest is the income from that asset.
- Some individuals have assets that are not earning interest. A quantity of money is an asset. It is a thing of value that could be used to benefit its owner, even though it is not producing income.
- Some belongings of value are not considered assets. Necessary personal property is not counted as an asset. Examples of necessary personal property include wedding rings, personal vehicle used for ordinary life activities, laptop computer, television set, etc.

Asset information must be obtained at the time of the initial move-in certification and at recertification. Third party verification of the cash value of assets and income from assets is required. The applicant affirms that the information provided is correct by executing the Tenant Income Certification (see **Part 618**).

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### Part 320 : Example of Calculating Income from Assets

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If net family assets exceed \$5,000, asset income (which must be included as part of household income) will be the greater of: (a) actual asset income; or (b) net family assets times the HUD approved passbook rate for the area (the imputed income from assets). Local HUD offices periodically publish the HUD approved passbook rate. At the time of publication of this compliance manual, the passbook rate is two percent (2%) and has not changed in many years.

An example of calculating income from assets is as follows:

<b>Type of Asset</b>	<b>Cash Value of Asset</b>	<b>Actual Income from Asset</b>
Checking Account (non-interest bearing)	\$ 300	\$ 0
Savings Account (3% interest rate)	2,000	60

Certificate of Deposit	9,000	550
Stamp Collection	15,000	0
Total	\$ 26,300	\$ 610

The CD has a face value of \$10,000 with an interest rate of 5 ½ percent and a 10% penalty for early withdrawal, for a cash value of \$9,000 and actual income of \$550.

Since total assets (\$26,300) exceed \$5,000, imputed income must be calculated as follows: Total Assets x 2% HUD Passbook Rate = \$26,300 x .02 = \$526. Annual income must include the \$610 (actual asset income) because it is greater than the imputed income received on the assets.

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**Part 322 :: Net Family Assets Less than or Equal to \$5,000**

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If net family assets are less than or equal to \$5,000, asset income will equal actual yearly income from assets. The actual yearly income from assets must be included as part of household income. For example:

Type of Asset	Cash Value of Asset	Actual Income from Asset
Checking Account (non-interest bearing)	\$ 800	\$ 0
Savings Account (3% interest rate)	2,000	60
Certificate of Deposit	1,000	35
Total	\$ 3,800	\$ 95

Since the cash value (\$3,800) of the family's combined assets is less than \$5,000, the 2% HUD Passbook rate calculation is not used. However, since the family earns income from its assets, the \$95.00 must be included as part of annual income.

For a related topic, see **Part 324** (Asset Certification form).

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**Part 324 :: Asset Certification Form (for under \$5,000 in assets)**

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*This Part applies to LIHTC projects only.*

The Asset Certification form may be used in lieu of third party verification of assets at recertification for households if the members have combined assets of less than \$5,000. The Asset Certification is a signed, sworn statement (under oath) that the combined value of the assets of all household members has a cash value of less than \$5,000. In addition to the completed Asset Certification form, the tenant file must include written documentation of any income earned from the assets. This can include bank statements provided by the tenant (as opposed to third party documentation).

**The Asset Certification form cannot be used for move-in or initial certifications. The form also cannot be used for the first anniversary recertification in projects that have been approved to eliminate recertifications (as discussed in [Part 362](#)). All assets, including those for households with combined values of less than \$5,000, must be verified by a third party during the initial tenant certification and the first anniversary recertification. A blank copy of this form is available on the MSHDA website.**

(In projects which have not eliminated recertifications, the Asset Certification form can be used for all certifications other than the initial move-in certification.)

Note: The MSHDA Direct Loan programs (including those financed with tax-exempt and taxable bonds), HUD-regulated programs, HOME program, and Pass-Through programs do not recognize use of the \$5,000 certification form. Thus, all projects financed under those programs, even if also allocated tax credits, must conduct third party verification of all income and assets for the initial or move-in certification and for all interim and annual recertifications.

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**Part 326    :: Disposal (Divestiture) of Assets**

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At initial or move-in certification and at recertifications, all households must indicate whether or not family members disposed of assets for less than fair market value during the previous two years. A single asset or a combination of assets is considered to be “divested of” if given away, donated or sold for an amount that is over \$1,000 less than the fair market value of that asset or combination of assets is considered to be “divested of”. These divested assets must continue to be included as part of household income for two years following the date of disposal.

In addition, the owner/management agent must inquire about any decreases in total household assets when the total asset value decreases by \$1,000 or more. An explanation for the decrease of \$1,000 or more must be included in the tenant file. Also, in order to ensure that a tenant did not omit an asset from a previous certification, the tenant file must include an explanation of any increase of \$1,000 or more over the cash value of assets from the previous certification.

A household indicates whether assets have been divested of on the MSHDA Checklist (discussed in [Part 616](#)). For more information about divestiture of assets, see HUD Handbook 4350.3, which is discussed in [Part 302](#).

*Specific types of assets are discussed beginning in [Part 396](#) of this Compliance Manual.*

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## Section 3E - Verifications

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*This Section provides a brief overview of the methodology for verifying income and assets. Owners/managers should thoroughly review the verification rules and guidance provided in the **HUD Handbook 4350.3** (latest version), “Occupancy Requirements of Subsidized Multi-family Housing Programs”, which is discussed in **Part 302** of this Compliance Manual.*

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### Part 328    Overview of Verification Methods

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LIHTC programs require owners to use verification methods that are acceptable to HUD. HUD accepts five methods of verification. These are, in order of acceptability:

- (1) Third-party written verification – see **Part 330**.
- (2) Electronic verification – see **Part 332**.
- (3) Oral verification – see **Part 334**.
- (4) Review of documents provided by the applicant – see **Part 338**.
- (5) Applicant’s/resident’s affidavit – see **Part 340**.

If third-party verification is not available, owners must provide documentation in the resident file to explain its unavailability, including the dates the owner/management agent attempted to obtain the third-party verifications, as discussed in **Part 336**.

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### Part 330    Third-Party Written Verification

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Third-party written verification is the required\* method of documenting income and assets. The income verification request must be sent directly to the source by the owner or management agent and returned by the source to the owner or management agent. Under no circumstances should the applicant or resident be allowed to send or deliver the verification form to or from the third party source.

MSHDA does not require that the owner/management agent use any particular form for third-party verifications; however, sample HUD third party verification forms are included in the HUD 4350.3. A request for income verifications must:

1. State the reason for the request;
2. Include a release statement signed (discussed in **Part 634**) and dated by the prospective tenant.
3. Provide a section for the employer or other third party source to state the applicant’s current anticipated gross annual income or rate of pay, number of hours worked, and frequency of pay. Bonuses, tips, and commissions must be included. Spaces should also be available for a signature, job title, phone number, and date.

4. Indicate the probability and effective date of any pay increase during the next twelve (12) months.
5. A self-addressed, stamped return envelope can be included with the request for verification to expedite the certification process.

Applicants should be asked to sign two copies of each verification form. The second copy may be used if the first request has not been returned from the source in a timely manner. All tenant income verifications must be date stamped as they are received.

\*Written third party verification is required unless documentation can be provided indicating why it cannot be obtained, as discussed in **Part 336**.

For a related discussion, see **Part 314** (Ranges and Averaging).

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**Part 332    :: Electronic Verification**

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- A. Facsimiles - Verifications obtained via facsimile are acceptable provided the return fax number (i.e. the fax number for the tenant's employer/income source), name of firm, and date of transmittal are clearly legible on the document. Information sent by fax is most reliable if the owner and the verification source agree to use this method in advance during a telephone conversation.
- B. E-mail - Similar to faxed information, information verified by email is more reliable when preceded by a telephone conversation and when the document includes the e-mail address, firm name, and name of an appropriate individual who completed the form.
- C. Internet - Information verified on the Internet is acceptable as verification if the owner is able to view web-based information from a reputable source on the computer screen. The owner may accept a printout of the most recent statement if it includes (1) the relevant information required for third party verification, and (2) a website address and header or footer that identifies the company issuing the statement. If the owner has reason to question the authenticity of a document, the owner may require the resident to access the electronic file via the Internet in the owner's office, without providing the owner with username or password information.

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**Part 334    :: Oral Verifications**

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- A. Telephone Hotline Numbers - In situations in which a tenant's employer or other income provider does not provide written verifications and has set up a telephone number to call to obtain income information, the use of this information is acceptable as income/asset verification provided certain supplemental back-up documentation is obtained. The owner must note the telephone number, date, and information obtained from the hotline number. Supplemental documentation can include the six most recent paycheck stubs or a sworn statement from the tenant attesting to the accuracy of the information obtained via the hotline.

- B.** Verbal Verification - When written verification is not possible prior to move-in, direct contact with the source will be acceptable to MSHDA only as a last resort and must be followed by written verifications. The owner/management may contact the third party source to obtain the information. The conversation must be documented in the applicant's tenant file and include all information that would be contained in a written verification, including the name and title of the contact, the name of the on-site management representative accepting the information, and the date and time of the contact/telephone call. Verbal verification must be backed up with documentation such as a sworn statement from the tenant, copies of recent pay stubs, bank statements, etc. In addition, the tenant file should include an explanation as to why written verification was not obtained.

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**Part 336**    **Documenting Why Third Party Verification Is Not Possible**

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When third party verification is not available, owners must include written documentation in the file of efforts made to obtain the required verification and the reason the verification was not obtained, including the dates the owner/management agent attempted to obtain the third party verifications.

The owner must include the following documents in the applicant's or resident's file:

1. A written note to the file explaining why third party verification is not possible; or
2. A copy of the date-stamped original request which was sent to the third party, and a written description of the efforts to reach the third party to obtain verification, including the dates on which management attempted to obtain the third party verification(s). If no response was received, a note must be placed in the file indicating that the request has been outstanding without a response from the third party.

If third party documentation cannot be obtained or a fee is charged by the source for providing the information or for completing the form, then it is permissible for the owner/management agent to use an alternative method of documenting tenant eligibility, such as oral verifications as discussed in **Part 334** or a review of documents as discussed in **Part 338**.

Fee charged by the source – Some third party sources (such as banks, hotline numbers, etc.) may charge a fee for providing income or asset information. MSHDA does not require that owners/management agents pay a fee for this information (though, the owner/management may do so at its own option). Prospective residents and tenants must not be required to pay such fees. If a fee is charged by the third party source for verification information, it is permissible to use an alternate verification method, as discussed above. Documentation from the third party source, or a clarification record, indicating a fee is required for verifying information, must be placed in the resident file.

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**Part 338    :: Review of Documents Provided by the  
                  :: Tenant/Applicant**

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1. An owner may review documents submitted by the applicant or resident in one of the following situations:
  - a. Third party verification is not possible or is not required. For example, verifying that a household member is over 62 years old is more appropriately accomplished by examining a birth certificate than through third party verification.
  - b. Third party verification is delayed. If information from a third party is not received in a timely manner, owners may consider original documents submitted by the applicant or resident.
  - c. If incomplete or inadequate information was provided by the third party on the verification form, the owner/management agent should first attempt to obtain complete information from the third party. If unable to obtain the necessary information from the third party, the owner/management agent can then supplement the information provided on the verification form with other types of documentation.
2. Copies of the reviewed documents must be placed in the household's tenant file.
3. Obtaining accurate verification through a review of documents requires the owner to consider the following:
  - a. *Is the document current?* Documentation may be inaccurate if it is not recent.
  - b. *Is the documentation complete?* Pay statements (sometimes termed a “pay-stub”) can only be used as a secondary alternative to third party verifications if they indicate the gross amount of earnings (before deductions for such things as taxes, garnishments, etc.). At least six pay stubs or pay statements must be used in order to be acceptable as verification. Actual paychecks (i.e. the instrument cashed by the worker at the bank) or copies of paychecks should not be used to document income because deductions are not shown on the paycheck.
  - c. *Is the document authentic?* When original documents (such as a birth certificate) are presented, the original is photocopied and placed in the resident file with a notation that the document viewed and copied was an original. The notation must include the name of the person who inspected the original document. If the document inspected was not an original (i.e. it was a photocopy), the notation must also indicate that it appeared to be accurate and did not appear to have been tampered with.

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**Part 340    :: Self-Affidavit / Sworn Statement**

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An affidavit is a statement written and sworn in the presence of someone authorized to administer an oath, such as a notary public. The self-affidavit must be notarized and sworn under penalty of perjury. The date the self-affidavit was received by the owner/management agent must be written or stamped onto the form. Supporting documents, such as paycheck stubs, must be included to corroborate the information provided on the affidavit, as discussed in **Part 338** (Review of Documents Provided by the Tenant/Applicant).

The self-affidavit differs from the Annual Self-Certification of Income discussed in **Part 364** (Annual Self Certification), which is only used for projects that have been approved to eliminate annual recertifications.

For a similar topic, see **Part 334** (Asset Certification Form).

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**Part 342   : Notifications and Expiration of Verifications / 120**  
**: Days**

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The 120-day / 90-day / 60-day tenant notification timeframes outlined in the HUD 4350.3 are recommended, but are not required for LIHTC projects. The Checklist (see **Part 616**) must also be completed and signed within 120 days prior to the effective date of the certification. Signed verification release consent forms (discussed in **Part 634**) must be used within a reasonable time if the applicant's or resident's signature is to represent a valid and current authorization by the household.

Income and asset verifications must be obtained prior to the effective date of the certification. Verified information must be used in a timely manner since household circumstances are subject to change. Verifications are valid for 120 days from the date of receipt by the owner/management agent. If the verifications are more than 120 days old, the owner/management agent must obtain new verifications.

For related topics, see **Section 3F** (Certification Dates) and **Part 618** (Tenant Income Certification Form).

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## Section 3F - Certification Dates

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### Part 344 : Dates and Deadlines are Important

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Dates, time frames, and deadlines are important in the LIHTC Program and impact many critical aspects of the program, including tenant eligibility, amount of credit that can be claimed, and whether there is noncompliance. Dates are discussed throughout this Manual, as follows:

- Checklist dates – see [Part 344](#).
- Correction Deadlines for Physical Inspections – see [Part 750](#).
- Correction Deadlines for Tenant File Audits – see [Part 722](#).
- Expirations of Verifications – see [Part 342](#).
- Housing Choice Voucher Certifications – see [Chapter 11](#).
- Move-in Dates and Initial Certifications for LIHTC Projects – see [Part 346](#).
- Mass Recertifications – see [Part 358](#).
- Notifications (120-day, 90-day, 60-day) – see [Part 342](#).
- Placed-in-service Dates – see [Part 134](#).
- Recertification Effective Dates – see [Part 356](#).
- Rural Development (RD) Certification Effective Dates – see [Chapter 11](#).
- Signature Dates on Certifications – see [Part 350](#).
- Section 8 Project-Based Developments – see [Chapter 11](#).
- Lease Terms and Effective Dates – see [Part 628](#).

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### Part 346 : Move-in Dates and Effective Dates of Initial Certifications

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The effective date of a certification is that date on which all the necessary information to substantiate the household income amount has been obtained. It cannot be arbitrarily assigned.

Some projects involve new construction in which all tenants move in after construction is completed. Other projects involve rehabilitation or combined acquisition and rehabilitation in which some tenants might have moved in prior to the project becoming an official “LIHTC” project. Still other projects involve the acquisition and rehabilitation of a vacant (unoccupied) building in which all tenants move in after the rehabilitation is completed. The date on which a tenant must be certified as “LIHTC-eligible” can sometimes differ from the date on which the tenant actually “moves in” to the unit, though the two terms are sometimes used interchangeably.

- A. LIHTC Projects Involving the Acquisition and Rehabilitation of a Building – See [Part 348](#) (Acq/Rehab Projects – Certifying Existing Tenants).
- B. LIHTC Projects Involving Rehabilitation Only – If a unit is occupied during rehabilitation, all existing tenants (those who occupied the unit while it was being rehabilitated) must be

documented as having been LIHTC-eligible within 120 days prior to or on the rehabilitation placed in service date. Tenants who move in after the building's rehabilitation placed in service date must be documented as LIHTC-eligible at the time of actual move-in to the unit. If the building is not occupied during rehabilitation, a household must be LIHTC-eligible at the time of actual move-in to the unit. This topic is discussed in greater detail in [Part 140](#) (First Year of the Credit Period – Acquisition/Rehabilitation Projects). For a related topic, see [Part 856](#) (Temporary Relocation of Tenants).

- C. LIHTC Projects Involving New Construction – In newly constructed buildings, all households must be documented as being LIHTC-eligible at the time of actual move-in to the unit. The effective date of the tenant's initial certification is the date the tenant actually moves in. The move-in date is the date the tenant takes possession of the unit. For a related discussion, see [Part 138](#) (First Year of the Credit Period – New Construction Projects).
- D. On-going LIHTC Projects – These are LIHTC projects that are leased-up and which are beyond the initial year of the credit period. All households moving into on-going projects must be documented as being LIHTC-eligible at the time of actual move-in to the unit. The effective date of the tenant's initial certification is the date the tenant actually moves in. The move-in date is the date the tenant takes possession of the unit.
- E. Preservation Projects – For information specific to preservation projects, see [Chapter 11](#) (Preservation Projects – Procedures for Certifying Initial LIHTC Eligibility).
- F. Projects Receiving New, Second Allocations of Tax Credits – see [Chapter 11](#).
- G. Mixed Income Projects – In projects that have less than a 100% applicable fraction, if a tenant is designated as market rate at the time of the household's actual move-in to the unit, but later is re-designated as a LIHTC household, the tenant must have been certified as a LIHTC household at the time of re-designation. The procedure for initial certification of LIHTC-eligibility is discussed in [Part 300](#).
- H. Unit Transfers – For information regarding unit transfers, see [Part 848](#) (Overview of Transfers).

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**Part 348    :: Acq/Rehab Projects – Certifying Existing Tenants**

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**Two important considerations**

For LIHTC projects involving both acquisition and rehabilitation, there are two important considerations in determining when credit can begin being claimed:

- I. The earliest possible date from which credit can be claimed (discussed in [Part 140](#)); and
- II. The date on which existing tenants must be certified as income-eligible (which is discussed below).

**Existing Tenants** (i.e., those households occupying a unit at the time of acquisition) can be certified in accordance with any of the following:

- a) Before the acquisition date. If the new owner has access to the property before the acquisition date, tenant income certifications may be completed before, but not more than 120 days before, the acquisition using the income limits in effect on the acquisition placed in service date. The earliest effective date of the certification is the date of acquisition. An update of the certification could be necessary, as discussed in “d” below.
- b) Within 120 days after the acquisition date. For households occupying a unit at the time of acquisition, the initial tenant income certification may be completed within 120 days after the date of acquisition using the income limits in effect on the day of acquisition. An update of the certification could be necessary, as discussed in “d” below.
- c) 120 days or more after the acquisition date. In the event that a household occupies a unit at the time of acquisition, but the tenant income certification is not completed until more than 120 days after the date of acquisition, the household is treated as a new move-in. Initial certification requirements for move-ins are discussed in **Part 300** (General Overview of Tenant Certification Procedures). An update of the certification could be necessary, as discussed in “d” below.
- d) Update could be necessary. If an existing tenant is certified as LIHTC-eligible per a), b), or c) above, but the effective date of that certification was more than 120 days before the date from which credit is to be claimed, that existing tenant’s certification will have to be updated. This situation sometimes occurs when the acquisition date and the rehabilitation placed in service date occur in two different fiscal years. IRS Rev. Procedure 2003-82 requires “testing” each household’s income to determine if it has increased to more than 140% of the income limit in effect on the date from which credit will be claimed. If the newly tested incomes are less than 140% of the income limit, then credit can be claimed for these units. If these newly tested income amounts are greater than 140% of the income limit, then the Next Available Unit Rule must be applied.

The “test” consists of confirming with the households that sources and amounts of anticipated income included on the income certification are still current. If additional sources or amounts of income are identified than were reflected in the original certification, the tenant income certification must be updated based on the household’s documentation. It is not necessary to complete third party verifications. The Next Available Unit Rule is discussed in greater detail in **Part 806** (Next Available Unit Rule).

Note: In order for a household to be certified as LIHTC-eligible, it must be both income-eligible and rent-restricted, as well as meet all of the other LIHTC requirements (lease term, student status, etc.) discussed in **Part 300**.

For a related topic, see **Part 856** (Temporary Relocation of Tenants).

Generally, all adult household members are to sign the **Tenant Income Certification** before or when the household moves in to the rental unit, or on the effective date of the recertification. However, there will be circumstances where obtaining the signatures is impractical or where other government programs (such as Section 8, Housing Choice Vouchers, or Rural Development) require a different signature date or effective date. In these situations, the Tenant Income Certification (or comparable form) must be signed by the head(s) of household, adult members of the household and the owner/management agent no more than 30 days before the effective date. If the signature date is more than 30 days before the effective date or any number of days after the effective date, the owner/management agent should include a note in the tenant file explaining the reason for the excessive number of days.

In addition, note the following:

- The **MSHDA Checklist** (identifying all income and asset sources) must be completed and signed by the tenant no earlier than 120 calendar days prior to (not after) the effective date of the certification.
- All **income and asset verifications** must be obtained from the appropriate sources no earlier than 120 calendar days preceding (not after) the effective date of the certification (see the HUD Handbook 4350.3 for more information).
- For information about certifying existing tenants in acquisition/rehabilitation projects that are newly placed in service, see **Part 346** (Move-in Dates and Effective Dates of Initial Certifications for LIHTC Projects).

For a related discussion, see **Part 342** (Expiration of Verifications / 120 Days).

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## Section 3G – Recertifications

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Initial certifications are discussed in [Part 300](#).

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### Part 352 : Overview of Annual Recertifications

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All owners/management agents of LIHTC and bond projects must conduct an annual review of LIHTC households. The scope of the review depends on the several factors, as discussed below.

1. **Market Rate Units** - Projects that contain one or more market-rate/unrestricted units must complete a recertification at least annually for all of the LIHTC and bond units. The requirements for recertification are discussed in [Part 354](#) (Procedures for Recertification).
2. **Multiple Income Targeting levels** - Developments that have applicable fractions of 100% and more than one income targeting level for its LIHTC units may be eligible (with MSHDA pre-approval) for a partial elimination of the requirement to recertify tenants annually. These developments must complete a full initial or move-in certification (as discussed in [Part 300](#)) and a full-recertification (discussed in [Part 354](#)) on the first year anniversary of move-in for each household. Annually for each household for all years thereafter, the development must complete an annual self-certification (discussed in [Part 364](#)), including a review of documents (discussed in [Part 366](#)) for every LIHTC household.

An example of a project that has a 100% applicable fraction and multiple income targeting levels is as follows:

*Village Meadows is a LIHTC project with 55 units. All of the 55 units are LIHTC units. The project targets 10 of the units @ 30% AMI, 15 units @ 45% AMI, and 30 units at 60% AMI.*

3. **100% Applicable Fraction** – A development that has an applicable fraction of 100% and one income targeting level for its LIHTC units may be eligible (with MSHDA pre-approval) to eliminate recertifications (discussed in [Part 362](#)). These developments must complete a full initial or move-in certification (discussed in [Part 300](#)) and a full-recertification (as discussed in [Part 354](#)) on the first year anniversary of move-in for each household. Annually for each household for all years thereafter, the development must complete an annual self-certification (discussed in [Part 364](#)) for every LIHTC household. No review of verifications documents is required.

An example of a project that has a 100% applicable fraction and one income targeting level is as follows:

*Tammany Lane Apartments is a LIHTC project with 30 units. All of the 30 units are income and rent restricted at 50% AMI.*

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**Part 354**    **Procedures for Recertification**

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Unless the project is approved to eliminate recertifications (as discussed in [Part 362](#)), the owner must perform, at least on an annual basis, an income certification for each low-income household and receive documentation to support that certification. The LIHTC program requires that recertifications be completed at least annually based on either the move-in date or the one-year anniversary of the previous certification. The procedures for recertification are as follows:

1. Notify the tenant in writing that recertification is due. The 120-day / 90-day / 60-day notification timeframes outlined in the HUD 4350.3 are recommended, but are not required for LIHTC projects.
2. Interview the tenant(s) to obtain information regarding the household's income and assets.
3. Interview the tenant(s) about family composition. For information about the impact of a change in household composition, see [Part 502](#).
4. Have every household member who will be age 18 and over on or before the effective date of the recertification complete a Checklist – MSHDA Programs. See [Part 616](#) (MSHDA Checklist) for more information regarding the Checklist.
5. Verify each tenant's income and assets. Supporting documentation (third party income verification, employment verification, child support documentation, etc.) must be reviewed. See [Section 3E](#) (Verifications) for more information.
6. Complete a Tenant Income Certification form (TIC). The management agent and each adult member of the household must sign the TIC. See [Part 618](#) for information about the TIC.
7. Have each student household complete a Student Eligibility Certification form. See [Part 528](#) (Certifying Student Eligibility – Student Certification Form) for more information. Also, see note "A" below.
8. Review the tenant's Checklist, income and asset verifications, and the TIC to determine the tenant's eligibility for a LIHTC unit.
9. Notify tenants of any rent increase resulting from the recertification.
10. Update the Tenant / Unit File (which is discussed in [Part 646](#)) to include the newly obtained recertification documents.
11. Input the certification information into MSHDA's On-line Tenant Data Reporting System (which is discussed in [Part 700](#)).

Also, note the following in regard to recertification requirements:

- A. If tenants in a previously qualified LIHTC household become full-time students at any time, the household can only be considered as a qualified tax credit household if at least one of the student exception criteria is met as described in **Part 514** of this Compliance Manual. This eligibility determination must be made immediately upon the tenant becoming a full-time student and cannot be delayed until a recertification of the household is due.
- B. In the event household composition changes in any way, i.e., birth, death, marriage, divorce, or a family member or roommate vacates the unit, the household should notify management of the changes.
- C. The household's income at recertification must be used to determine if the Next Available Unit Rule has been triggered or impacted.

For a related discussion, see **Part 502** (Changes in Household Composition).

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**Part 356**    **Recertification Effective Dates**

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Unless eligible to eliminate recertifications (as discussed in **Part 362**), the LIHTC program requires that recertifications be completed at least annually based on either the move-in date or the anniversary of the previous certification. Per the IRS 8823 Guide, owners are in compliance if the recertification is completed within 120 days prior to the anniversary of the effective date of the original income certification. MSHDA permits certifications to be completed at any time during the year (not necessarily on the anniversary date of the move-in or date of initial eligibility), provided no more than 12 months have passed since the previous certification/recertification effective date. Third party verifications cannot be completed more than 120 days before the proposed effective date of the recertification.

As a limited exception to the requirement that recertifications be conducted on or before the anniversary date, it is acceptable for units that are regulated under a HUD Program, the Housing Choice Voucher Program, or RHS to conduct the recertification up to 30 days after the anniversary date of the most recent certification or recertification. These programs may require that the effective date of a recertification be the date that is one year from the first day of the month following the date of move-in. For example:

*Mary moved into the unit on January 15, 2007 and an initial certification was conducted with that effective date. Mary is now due for an annual recertification. RHS requires that the annual recertification of Mary's household be effective February 1, 2008. Because the February 1, 2008 is the effective date mandated by RHS, that date is acceptable for the LIHTC certification effective date to also be February 1, 2008, even though it is slightly more than one year after the effective date of the previous certification.*

RHS effective dates are discussed in greater detail in [Chapter 11](#). For additional, general information about effective dates and signature dates, see [Part 346](#) (Move-in Dates and Effective Dates of Initial Certifications) and [Part 350](#) (Signature Date on Certifications and Recertifications).

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**Part 358**    **Mass Recertifications**

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Some owners and managers desire to recertify all tenants on one date. These mass recertifications are permissible for LIHTC projects only if there is no tenant recertification that is being conducted more than 12 months after the effective date of the previous certification for that household.

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**Part 360**    **Interim Recertifications**

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An interim certification is one that is conducted less than 12 months prior to the last date on which the tenant was certified. These interim certifications are mandated by some government housing programs, such as Section 8 and Housing Choice Vouchers, whenever the tenant experiences a change in income or household composition. Interim certifications are not required for LIHTC projects. LIHTC only requires that a recertification be conducted once per year, however, if the project combines LIHTC with another government program such as Section 8 or Section 236, an interim certification might be required for all tenants (including LIHTC tenants) in order to maintain compliance with the requirements for those programs.

Owners/managers of LIHTC projects may, at their own option, choose to process interim recertifications, even if the project is not assisted with another government program mandating interim recertifications. If an interim recertification is conducted for a LIHTC tenant, a new TIC (discussed in [Part 618](#)) must be completed. In no event can a period of twelve (12) months or more pass without a recertification being completed.

Note: If an “interim” recertification is being conducted for purposes of qualifying a household for a lower income category (as discussed in [Part 842](#)), it must include full third party verification of income (i.e. essentially the same procedures as would be required for an annual recertification).

No interim recertification is required for 17 year olds who will turn 18 years old during the certification year, as discussed in [Part 380](#) (Income and Assets of Children).

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**Part 362**    **Elimination of Recertification Requirement**

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Per the changes to the Low Income Housing Tax Credit (LIHTC) program issued in Housing and Economic Recovery Act of 2008 (HERA), MSHDA does not require full third party verifications for certain LIHTC developments. Effective July 30, 2008, owners of tax credit projects that have a 100% applicable fraction may request permission from MSHDA to eliminate the annual recertification of its residents’ household incomes. That is, residents’ income must be certified

at move-in (or initial eligibility) and the first anniversary of move-in, but need not be recertified thereafter. In order to eliminate recertifications, developments must submit a Request to Eliminate Recertification form and receive written approval from MSHDA. The Request form must be signed by an authorized representative of the owner of the development and not the management agent.

Even if recertification is eliminated, the following tenant certification requirements remain:

1. The owner/management agent must complete an initial certification (including third party verification of all income and assets) for every new move-in. Initial certification requirements are discussed in [Part 300](#).
2. The owner/management agent must complete a recertification (including third party verification of all income and assets) on the first anniversary of the tenant's move-in (or date of initial eligibility). Recertification requirements are discussed in [Part 354](#).
3. Households transferring to another building in a project must complete an initial certification with third party verification of income and assets to determine eligibility. If eligible for the transfer, a first year anniversary recertification must be conducted after the first year and annual self-certifications for each year thereafter. Transfers are discussed in [Part 848](#).
4. The owner/management agent must complete an annual self-certification (discussed in [Part 364](#)) for every household at least annually.

For example:

*Titanium Villas is a LIHTC project with a 100% applicable fraction. The Smith household moved into the LIHTC unit on May 1, 2009. An initial income certification must be completed with an effective date of May 1, 2009. A recertification (including third party documentation of income and assets) must be completed on May 1, 2010. For every year thereafter (05-01-2011, 05-01-2012, 05-01-2013, etc.), a Self-Certification of Income must be completed.*

Owners/management agents that elect (and are approved by MSHDA) to eliminate recertifying tenants must be aware of the following:

1. The authorization to eliminate recertification is automatically revoked if an over-income tenant moves into the development or for any other event that results in a reduction in the applicable fraction (such as the unapproved conversion of a unit to a non-residential use as discussed in [Part 862](#)).
2. The Next Available Unit Rule does not impact projects that have been approved to eliminate recertifications, provided the owner/management demonstrated due diligence when completing the initial income certifications (as discussed in the IRS 8823 Guide). If the approval to eliminate recertifications is ever revoked, the project will be required to comply with the NAUR, as discussed in [Part 816](#) (NAUR – Impact on Projects with a 100% Applicable Fraction).
3. The change is not retroactive. Only recertifications effective after MSHDA's approval date are waived.

4. All files for new move-ins may be selected for review during MSHDA's file audit of the development. This may result in a percent larger than 20% of the units. Tenant file audits are discussed in [Part 708](#).
5. No other LIHTC reporting requirements are eliminated. Owners must continue to enter data into MSHDA's On-line Tenant Data Reporting System (discussed in [Part 700](#)) and complete an Annual Owner Certification of Compliance and other annual forms (discussed in [Part 704](#)).
6. The election to eliminate recertifications is applicable only for the LIHTC program. Projects that have multiple funding sources (such as HOME or Section 8) must continue to complete annual income recertifications in order to comply with the requirements of those programs.
7. The option to eliminate annual recertifications is not applicable to projects that have Regulatory Agreements that mandate annual recertification of tenants. Owners must comply with all of the terms of the regulatory agreements for their projects. Owners of projects that have bond financing must be aware that most of the regulatory agreements for those projects require annual recertifications and those owners cannot eliminate annual recertifications for those projects.
8. All units must continue to be rent-restricted throughout the household's entire tenancy in the LIHTC unit.

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**Part 364    :: Annual Self-Certification**

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Owners that have received permission to eliminate annual recertifications (as discussed in [Part 362](#)) must obtain (1) a completed Self-Certification of Income Form and (2) a completed Student Certification Form from every household at least once per year. The annual self-certification consists of the following:

1. **Self-Certification of Income Form**
  - a. Each household must indicate its projected annual income for the upcoming certification year. This sworn certification is sufficient and no third party verification or other income documents are required for projects with only one income targeting level.
  - b. Projects with multiple income targeting levels must complete the Self-Certification of Income form along with a review of documents (discussed in [Part 362](#)).
  - c. Projects with market rate/unrestricted units are not eligible to use the Self-Certification of Income form and must complete a full third party verification of income, as discussed in [Part 354](#).)
  - d. A copy of the form is available on the MSHDA website.
  - e. A review of documents, along with completion of the Self-Certification form, is necessary for some households, as discussed in [Part 364](#).
  - f. The Self-Certification of Income form must be sworn under penalty of perjury, but is not required to be notarized.
  - g. For a similar topic, see [Part 340](#) (Self-Affidavit/Sworn Statement).
  - h. As stated in [Part 816](#), the income amount listed on the Self-Certification of Income form is not used for purposes of the Next Available Unit Rule.

2. **Household Composition Data**

- a. In the event household composition changes in any way, i.e., birth, death, marriage, divorce, or a family member or roommate vacates the unit, the household should notify management of the changes. Household composition is discussed in **Part 500** and throughout **Chapter 5** of this Compliance Manual.
- b. The Totem Pole Rule (discussed in **Part 504**) continues to be applicable to all projects. If at any time all of the original tenants have vacated the unit, the remaining household members must be certified as a new move-in (discussed in **Part 300**).
- c. Special Needs – Some projects have a requirement that all or a percentage of the units be occupied by persons with special needs. The owner/management agent must ensure that the special needs requirement continues to be satisfied. Special needs are discussed in **Part 538**.
- d. Elderly Developments (discussed in **Part 532**) – The owner/management agent must determine whether the units continue to satisfy the elderly requirement.

3. **Demographic Information**

Certain demographic data must be obtained at least once per year. This data includes some mandatory items (such as household size and age of head of household) and some voluntary items (such as race, national origin, etc.). For additional information about tenant data collection, see **Part 700** (MSHDA's On-line Tenant Data Reporting System) and **Part 702** (HUD's Requirements for Tax Credit Data Collection).

4. **Rent Information, Utility Allowance, Subsidy Amount, etc.**

Rent restrictions and utility allowances regulations remain applicable. The owner must update the utility allowances at least annually and report this information to MSHDA.

The **Student Certification Form** (discussed in **Part 528**) must be completed at least annually for every household in the development. [Important Note: If tenants in a previously qualified LIHTC household become full-time students at any time, the household can only be considered as a qualified tax credit household if at least one of the student exception criteria is met as described in **Part 514** (Exceptions to the Full-time Student Exclusion) of this manual. This eligibility determination must be made immediately upon the tenant becoming a full-time student and cannot be delayed until a recertification or periodic assessment of the household is due.]

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**Part 366**    :: **Review of Documents with Self-Certification of**  
                  :: **Income**

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As discussed in **Part 352** (Overview of Annual Recertifications), developments that have a 100% applicable fraction and multiple income targeting levels are eligible to eliminate much of the standard recertification requirements. However, these developments must complete a Self-Certification of Income form (discussed in **Part 364**). In addition, the owner/management agent must review each income and asset amount indicated on the affidavit. This review, however, can be made by viewing documents (such as pay statements and bank statements) provided by

the tenant (discussed in [Part 338](#)), electronic verifications (discussed in [Part 332](#)), and oral verifications (discussed in [Part 334](#)). Third party verification is not required (but is permissible). MSHDA does not require that the owner/management agent make copies of the documents for the tenant file.

The Self-Certification of Income form and the review of income and asset documents should be used by owners to ensure that the lowest income targeting levels are being made available to eligible households who have the lowest incomes. The owner should determine whether a household's income has increased since the previous certification to an amount that would afford that household the ability to be re-designated at a higher AMGI level.

The review of documents is required for all income targeting levels at the development, except the highest income targeting level. For example:

*Sunny Apartments is a 150-unit LIHTC project with a 100% applicable fraction and multiple income targeting levels (30% AMGI, 45% AMGI, and 50% AMGI). Sunny Apartments is required to have 10 units @ 30% AMGI, 15 units @ 45% AMGI and the remaining 125 units are @ 50% AMGI. The project applied for and was approved to eliminate annual recertifications. Since the project has multiple income targeting levels, a review of documents is required for the lower income levels (i.e. 30% AMGI and 45% AMGI). No review of documents is required for the 50% AMGI level.*

For additional information about AMGI levels, see [Part 832](#) (Overview of Deeper Targeting and Agency Covenants) and [Part 842](#) (Changing a Household's AMGI Designation).

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## **Part 368**    **Recertification Waiver – old procedure**

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Section 42(g)(8)(B) and IRS Revenue Procedure 2004-38 (which superseded IRS Revenue Procedure 94-64), which stated that an owner of a project with a 100% applicable fraction may request a waiver of the annual recertification requirements, are no longer applicable. That recertification waiver procedure is no longer available, but is still effective for those few projects that received approval from MSHDA under those old procedures. Owners now desiring to eliminate recertifications must complete a Request to Eliminate Recertification form, as discussed in [Part 362](#).

Under the old recertification waiver procedures, owners received approval by the execution of an IRS form 8877, which was signed by the owner, MSHDA, and the IRS. (Only those owners which returned a copy of the form 8877 to MSHDA after it was signed by the IRS were approved to waive recertifications.) As stated on IRS Form 8877, while a waiver is in effect, the owner is exempt from the recertification requirements of Regulations sections 1.42-5(b)(1)(iv) and (vii) and 1.42-5(c)(1)(iii) for each building to which the waiver applies. Thus, the owner is not required to keep records that show an annual income recertification for all the low-income tenants in the building who have previously had their annual income verified, documented, and certified; maintain documentation to support that recertification; or certify to the compliance monitoring agency that it has received this information. In summary, the recertification waiver eliminated the requirement to verify the income and assets of existing tenants on an annual basis. However, a waiver does not relieve the owner of having to produce documentation in

support of the requirements of section 42, including keeping records and documentation that show each tenant's annual income upon the tenant's initial occupancy of any unit and satisfying the compliance monitoring procedure adopted by the compliance monitoring agency. The owner/management agent must obtain a statement from each tenant once every twelve months stating what the household's income is, household composition, and student status. The only difference is that verification by a third party of the income and asset information will not be required. The owner/management agent must continue to complete full certification procedures (including third party documentation) for all new move-ins.

The recertification waiver applies to the LIHTC program only and does not eliminate the need to recertify for other housing programs. Projects that participate in other programs, such as RHS, Section 8, or other project-based subsidies and/or that have MSHDA Direct Loan financing (i.e. 70/30, 80/20, 1%, Taxable Bond, Team), HOME, Neighborhood Preservation Program (NPP), NSP, or other such financing program must continue to complete recertifications as required for those programs.

The waiver remains in effect until the end of the 15-year compliance period, unless the waiver is revoked, in which case it ceases to be in effect on the date of revocation. The IRS may revoke the waiver if the building ceases to be a 100% low-income building or if the IRS determines that the owner has violated section 42 in a manner that is sufficiently serious to warrant revocation. The IRS will also revoke the waiver if the compliance monitoring agency requests its revocation. A change in the ownership of the building for federal tax purposes (including a change resulting from the termination of a partnership under section 708) will cause the waiver to be revoked automatically as of the change in ownership. The new owner may apply for a waiver.

The owner must continue to submit annual compliance certifications and enter data into MSHDA's On-Line Tenant Data Reporting System. Annual monitoring fees are still required, if applicable. MSHDA will inspect a minimum of 20% and a maximum of 100% of the tenant files for new move-ins to the development once every three years.

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## Section 3H - Income Certifying Particular Household Members

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*This Section provides a brief overview of the income calculation issues for certain household members. Owners/managers should thoroughly review the verification rules and guidance provided in the **HUD 4350.3**.*

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### Part 370 : Income Qualifying a Development's Employees

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#### Employee resides in a LIHTC unit (not common area)

For employees of the owner, management agent, or project that are residing or applying for occupancy in a low-income/restricted unit in the development, in addition to third party verification of income and assets, at least one of the following supplemental documents is required:

- Pay statements
- W-2 forms
- Income tax return – (state and/or federal)

Rent concessions in lieu of wages that are provided to employees by the owner/management agent or project must be included as income for purposes of determining eligibility to reside in a restricted unit. In valuing the rent concession and determining how much should be included as income for employees living in LIHTC (non-common area) units, the amount should be the amount of rent that a LIHTC household living in the unit would pay for rent plus the applicable utility allowance. For example:

*Barbara recently accepted a position with Sunshine Villas as a resident manager. Her compensation is \$15,000 annual, plus a free residential unit at the development. The development contains 100 units, an applicable fraction of 100%, and does not include any common area units. The usual rent for her apartment would be \$400 per month. Her total compensation for LIHTC purposes will be \$19,800 (\$15,000 salary plus \$4,800 in rent concessions). In order for Barbara to be eligible to reside in the LIHTC unit (non-common area), the maximum allowable income would have to be \$19,800 or higher.*

*Note: If the manager is required to live on site as a condition of employment, rent concessions must be counted as part of household income. If on-site occupancy is optional for the employee, rent concessions are not treated as rent or income.*

#### Employee resides in a common area unit

The income of the employee does not have to be certified or be within LIHTC limits. The value of a rent concession does not have to be counted as income since the employee can reside in the common area unit without regard to the income of the household. However, it is *not* permissible for a development to collect rent for a manager's use of a common area residential unit, though it is permissible for a development to factor its value as part of the compensation paid to a manager.

For related discussions, see [Part 858](#) (Common Area Residential Units) and [Part 552](#) (Managers/Employees as Tenants).

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**Part 372**    **Income and Assets of Students**

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*HUD 4350.3 Section 5-10(2); HUD 4350.3 Section 5-6 (d)*

As stated in HUD 4350.3, Section 5-6(a)(3)(d), only the first \$480.00 per year of earned income of dependent full-time students ages 18 years or older is included as household income. This \$480.00 income limit applies only to full-time students who are ages 18 or older and who are not the head of the household or spouse or co-head. [None of the earned income of a dependent child under age 18 is counted, as discussed in [Part 380](#).] All of the unearned income, such as SSI and interest income, of all household members, regardless of age, is counted (except if income source is specifically excluded in the HUD 4350.3).

Any household member over the age of 18 and any minor who is not a dependent (i.e. included on the federal tax return) of another person must be deemed a head of household, co-head, or spouse for LIHTC purposes. The \$480 amount does not apply to a head of household, co-head, or spouse. All income, including that which is earned and unearned, of such persons must be counted as part of household income. Example:

*Bill and Bob, both 19 years old, share an apartment in a LIHTC development. Bill is not a student and is employed full-time. Bob attends school full-time and works part-time at a local restaurant. Bill and Bob must be deemed as co-heads of the household for LIHTC purposes and the entire amount of each of their incomes must be counted. Even though Bob is a full-time student, the \$480 does not apply to him because he is a co-head of household.*

Note that the \$480 income inclusion applies only to earned income. The entire amount of unearned income such as social security payments, trust fund receipts, and gift income must be included as part of household income. The cash value of assets and income from assets are also not subject to the \$480 limit and the full, appropriate amount (see [Part 310](#) for information about income from assets) must be included as part of household income. As discussed in [Part 384](#), no portion of student financial assistance, including amounts in excess of tuition, is counted as income for purposes of determining LIHTC eligibility, unless the household receives Section 8 assistance.

For additional information about students, the following:

- See [Part 508](#) (Overview of Students).
- See [Part 530](#) (Part I of the HUD Student Rule - Student Eligibility).
- See [Part 384](#) (Part II of the HUD Student Rule - Student Financial Assistance in Excess of Tuition).

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**Part 374**    **Participants in Michigan’s No Worker Left Behind Program**

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Michigan’s No Worker Left Behind (NWLB) program helps displaced workers by providing up to two years free tuition at any Michigan community college or other approved training program and allowing displaced workers to receive needed training in high demand skills while receiving unemployment benefits. NWLB provides tuition, up to a certain amount per year, that is available to cover costs, including instructional costs, books, materials, fees (such as application costs, registration, and laboratory fees), and academic supportive services (counseling and career advising). [citation: NWLB website].

NWLB is funded, in part, by federal Workforce Investment Funds, per information contained on the NWLB website. HUD Handbook 4350.3 [Exhibit 5-1, Item Q.2 (Exclusions from Income)] states that “Incremental earnings and benefits received by any family member due to participation in qualifying state or local employment training programs are excluded.”

When assessing the eligibility of NWLB participants, note the following:

- The LIHTC program does not prohibit occupancy for full-time students who are enrolled in a job training program funded by a government agency. Since the NWLB is funded by a government funded job training program, participants in the NWLB are not prohibited full-time students for LIHTC purposes. [Note: This interpretation may be subject to change should the state or IRS issue an official interpretation of the guidelines for the NWLB program.] For additional information about the student requirements for LIHTC projects, see **Part 508** and **Part 518**.
- Since the NWLB funds are for participation in a state employment training program (see HUD Handbook 4350.3 Exhibit 5-1, Income Exclusions, Item #(8)(e)), none of the funds provided by the NWLB, including amounts in excess of tuition, are counted as part of the household annual income. None of the costs of tuition, books, materials, fees, etc. are counted as part of household income if these costs are paid for from funds provided by the NWLB.
- As stated in the HUD 4350.3, “*income received as compensation for employment is excluded only if the employment is a component of a job training program. Once training is completed, the employment income becomes income that is counted.*”
- As stated in the HUD 4350.3, “*Amounts received during the training period from sources that are unrelated to the job training program, such as welfare benefits, social security payments, or other employment are not excluded.*”

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**Part 376    :: Household Members with Zero Income**

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Any adult household member (age 18 and over), including one who is a full-time student, who states that he or she does not have any income must complete a Zero Income Certification. The **Zero Income Certification** form is available on the MSHDA website and is the mandatory form for all certifications with effective dates beginning in November 2015 (and after). Owners/managers may reproduce this form on their own letterhead, however, it must include all of the questions contained on the MSHDA form.

The Zero Income Certification is sometimes called a **Tenant Survival Statement** or a **Certification of Zero Income**. An owner's failure to have a household member who claims to have zero income execute a Zero Income Certification will be deemed as noncompliance. For a related discussion, see **Part 392** (Anticipated Income).

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**Part 378    :: Unemployed Adult Household Members**

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When determining annual income, owners must include all anticipated known sources of earned and unearned income. Owners are not required (unless mandated by another government program in which the tenant participates) to anticipate income for members of the household that are currently unemployed. Anticipated income is not required to be calculated from employment that an adult is seeking or planning to seek, but has not yet secured. However, if the adult is receiving unemployment benefits, worker's compensation benefits, or is regularly employed on a seasonal basis, the appropriate calculation must be made and included as part of household income. Also, if the individual is on layoff, furlough, or leave status and has an estimated or definite return to work date, the amount of income anticipated to be earned during the upcoming twelve month period must be included as part of household income.

The unemployed adult household member must complete a Zero Income Certification if he or she claims to have no income. For related discussions, see **Part 392** (Anticipated Income) and **Part 376** (Certifying Tenants with Zero Income).

Self-employed persons must provide an estimate of the income they anticipate earning during the upcoming 12-month period. For additional information about self-employed persons, see **Part 390** (Income from Self-Employment / Business Income).

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**Part 380    :: Income and Assets of Children**

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Earned Income of Children (Under Age 18)

Earned income is from employment. None of the earned income of a child under the age of 18 is included in the household's annual income.

Unearned Income of Children (Under Age 18)

Unearned income of children must be included as part of household income. Unearned income is basically all types of income that is not derived from employment, such as social security,

interest on savings accounts, and proceeds from trust funds, unless otherwise exempted in the HUD 4350.3. Unearned income also includes Social Security and Supplemental Security Income (SSI) received by a household member on behalf of a minor child.

#### Assets and Income from Assets Owned by Children

Assets owned by children are included as part of household assets for purposes of determining annual income. In addition, income from assets (such as the interest received on a savings account) are also included as part of annual income.

#### 17 Year Olds Who Turn 18 Years Old during the Certification Year

The earned income of a household member who is 17 years old on the effective date of the certification or recertification is not required to be included as part of household income (unless that person is the head or co-head of household or an emancipated minor), even if that individual will turn 18 years old at some time during the certification year. There is no requirement that an interim recertification be conducted on the individual's 18<sup>th</sup> birthday. Once the individual is 18 years old, his or her income must be verified and included for all future annual recertifications.

For a related discussion, see **Part 382** (Foster Children and Foster Adults) and **Part 380** (Income and Assets of Students).

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### **Part 382**    **Foster Children and Foster Adults**

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*HUD Handbook 4350.3, Part 5-6 (A, 3, g)*

1. Exclude from annual income the foster care assistance a household receives from the local welfare department, state agency, child placement agency, non-profit organization, or similar organization or entity for the care of a foster child or foster adult, as stated in Part 5-6 (A, 3, g) of the HUD 4350.3 and again in Exhibit 5-1: Income Inclusions and Exclusion and in 24 CFR 5.609 (c, 2).
  - a) This exclusion pertains to the amounts paid to the foster parent by a state or nonprofit agency under Title IV-E of the Social Security Act, State Ward Care, County Child Care Fund or similar source.
  - b) This exclusion applies to amounts for room & board, personal Incidentals & allowances, clothing allowances, age or special need supplements, holiday allowances, or other expenses or allowances.
2. Exclude from annual income kinship care and other compensation comparable to foster care payments that relatives or legal guardians receive for care of foster children and foster adults as an alternative to foster care placements. [24 CFR § 5.609(c)(2) and HUD Notice PIH-2012-1 (HA)]
3. Exclude from annual income money earned (employment) by a foster child who is not yet 18 years old.

4. Include in annual income money earned by a foster adult who is at least 18 years old.
  - a) Change 3 to HUD Handbook 4350.3 states that both the earned and unearned income of foster adults must be included as part of household annual income.
5. Include in annual household income the unearned income of a foster child or foster adult, such as SSI disability payments and income from assets received/owned by or on behalf of a foster child or foster adult.
  - a) Change 3 to HUD Handbook 4350.3, which was issued on June 23, 2009 and became effective in August 2009, states that the unearned income of foster children under age 18 will now be counted as income. As stated previously, Change 3 to HUD Handbook 4350.3 states that both the earned and unearned income of foster adults must be included as part of household annual income.
  - b) In some situations, the unearned income is not being made directly to a household member. Rather, these funds is the payee on these funds to the state or child placement agency, and then the state uses these funds to make foster care management payments to the foster parent. The owner/management agent should make sure these amounts are not being “double counted” as annual income.

As stated in the 4350.3, foster children (except those in the process of being adopted) and foster adults do not count as household members for eligibility purposes (i.e. determining which income limits apply), though, as discussed above, in some situations, the income of the foster child or foster adult must be included as part of annual household income.

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## Section 3I - Income Sources

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*This Section discusses only a few income sources. Owners and managers should thoroughly read the **HUD 4350.3** for information about income and asset sources.*

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### **Part 384**    :: **Part II of the HUD Student Rule: Student Financial Assistance in Excess of Tuition**

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*This Part of the manual discusses only the income calculation portion of the HUD Student Rule. The eligibility portion of the HUD Student Rule is discussed in **Part 530**.*

No portion of student financial assistance should be included as income for purposes of determining LIHTC income eligibility, except if the household receives Section 8 assistance. If the household receives Section 8 assistance, that amount of the student financial assistance that exceeds tuition must be counted as part of income, unless the household meets one of HUD exceptions (i.e., for example, dependent child living with his or her parents, etc.).

Student financial assistance includes scholarships, grants, stipends, GI Bill, and federal work study, but not student loans.

(Change 3 to HUD Handbook 4350.3, which was issued on June 23, 2009 and became effective on August 1, 2009, stated that grants and scholarships should only be counted for students receiving Section 8 assistance and makes it clear that exclusion of such income, for anyone other than a Section 8 recipient, is mandatory. The IRS 8823 Guide further emphasized that all student financial assistance is excluded for LIHTC purposes, except if the individual receives Section 8 assistance.)

For important additional information about income and assets of students, see **Part 372**.

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### **Part 386**    :: **Child Support Income**

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*IRS Revenue Ruling 2004-82*

Child support income received and/or reasonably anticipated to be received by a prospective or existing resident must be included when determining gross annual income. Child support income must be calculated and third party verified in accordance with HUD 4350.3 requirements. Additional information about child support income is contained in Chapter 5 of HUD Handbook 4350.3 Rev 1 (or latest revision).

#### **Families with Court Order/Judgment for Child Support**

To determine if an applicant is income eligible, the full court ordered annual amount of child support must be included in the calculation of gross income for new move-in/initial eligibility certifications. If the applicant is income eligible with the full court ordered amount included, there is no need to use less than this amount for the calculation of gross income, even if the family is not receiving child support payments on a regular basis. Third party verification and a copy of the child support documentation (order/judgment) must be included in the tenant file.

### **Families with Court Order/Judgment – Not Receiving Full Child Support Payments**

If the applicant is not receiving the full amount of child support ordered and income eligibility is negatively affected (i.e. applicant is not income eligible) then further due diligence and additional documentation is required to determine income eligibility. Third party verification, child support documentation (order/judgment), and a signed Child Support Certification form must be included in the tenant file.

**Scenario #1:** No child support income is received for the past 12 months (consecutive time period)

- Include full ordered annual amount of child support income or,
- Include zero income for child support, only if the owner/management agent obtains a Friend of the Court (FOC) **statement or printout** detailing a 12 month history of sporadic payment and at least one of the following:
  - A. Documentation that FOC has instituted collection efforts on behalf of the applicant/resident (i.e. show cause hearing notice, bench warrant, etc.); or
  - B. Applicant/resident letter addressed to FOC (along with a sworn, self-affidavit that letter was mailed to FOC) indicating the following:
    - Notification that child support payments are not being received
    - Specify details regarding missing payments (i.e. Feb-Dec. 2008, Jan.-Mar. 2009, etc.)
    - Authorization and/or request that FOC pursue collection on behalf of the applicant/resident

**Scenario #2:** Less than the full amount of child support income is received on an annual basis for the past 12 months (consecutive time period)

- Include full ordered annual amount of child support income or,
- Include average annual income for child support, only if the owner/management agent obtains a Friend of the Court (FOC) **statement or printout** detailing a 12 month history of sporadic payment and at least one of the following:
  - A. Documentation that FOC has instituted collection efforts on behalf of the applicant/resident (i.e., show cause hearing notice, bench warrant, etc.); or
  - B. Applicant/resident letter addressed to FOC (along with a sworn, self-affidavit that letter was mailed to FOC) indicating the following:
    - Notification that child support payments are not being received
    - Specify details regarding missing payments (i.e. Feb-Dec. 2008, Jan.-Mar. 2009, etc.)
    - Authorization and/or request that FOC pursue collection on behalf of the applicant/resident

**Scenario #3:** Owners are expected to use reasonable judgment as to the most reliable approach to anticipate the amount of child support the tenant will receive during the year.

- The most conservative method from an income-eligibility standpoint would be to use the full judgment amount, or
- The owner may annualize based on the total amount received and time period covered on the third party verification. This method requires a detailed Friend of the Court report verifying the actual child support payments received from the date of the judgment to the current date. Chapter 5 of the HUD 4350.3 describes the methodology for annualizing income.

### **Families without a Court Order/Judgment for Child Support**

If child support income is being received and the family does not have a court order/judgment, per IRS Revenue Ruling 2004-82, a sworn self-certification (Child Support Certification form) is considered acceptable for Section 42 purposes and must be included in the tenant file.

### **Child Support Arrearages**

HUD has published the following below on its PIH Rental Integrity Summit FAQs page of its website. (While that particular portion of HUD's website is for Public and Indian Housing, HUD's answer references "24 CFR 5.609", which is applicable to HUD-subsidized multifamily housing programs and other housing programs, including LIHTC, that use the HUD 4350.3 for purposes of income calculation).

Question: Regarding child support payments, when the child turns 18 and is still receiving payments for arrears, would the PHA count this as annual income?

HUD's Answer: Yes. Pursuant to 24 CFR 5.609, annual income means all amounts, monetary or not, which goes to, or on the behalf of, the family head or to any other family member, that are anticipated to be received from a source outside the family during the 12-month period following admission or the annual reexamination effective date.

Question: If a family receives different amounts each month (e.g., \$500 - \$700) in child support payments, and, for one month, receives a lump-sum payment of \$10,000 for arrears, must the PHA project annual income including the \$10,000?

HUD's Answer: For the year in question, the \$10,000 is income received for child support and should be counted as usual.

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## **Part 388    :: Funds Paid to a Former Spouse**

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HUD Handbook 4350.3 Rev. 1 CHG-2 states that *"federal government pension funds paid directly to an applicant's/tenant's former spouse pursuant to the terms of a court decree of divorce, annulment, or legal separation are not counted as annual income. The state court has, in the settlement of the parties' marital assets, determined the extent to which each party shares*

*in the ownership of the pension. That portion of the pension that is ordered by the court (and authorized by the Office of Personnel Management (OPM), to be paid to the applicants/tenants former spouse is no longer an asset of the applicant/tenant and therefore is not counted as income. However, any pension funds authorized by OPM, pursuant to a court order, to be paid to the former spouse of a federal government employee is counted as income for a tenant/applicant receiving such funds.”*

Change 3 to HUD Handbook 4350.3, which was issued on June 23, 2009 and became effective on August 1, 2009, expanded excluded income to **pensions of all types** when part of the pension is paid to a former spouse by court order. This previously applied to only federal pensions.

While the HUD 4350.3 Rev.-1 CHG-2 references pensions, it appears the portions of other types of income (such as proceeds from rental contracts, etc.) that are divided pursuant to a court decree also do not count as income.

Note that, per the HUD 4350.3, alimony *paid* by a resident to a former spouse is not excluded from the resident’s income, even if the funds are garnished from the resident’s earnings. Alimony *received* by a resident must be counted as part of the resident’s household income.

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**Part 390**    **Income from Self-Employment or Business**  
                  **Ownership**

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Per the IRS 8823 Guide, the net income from the operation of a business, profession, or sole proprietorship businesses is included in income. Net income is gross income less business expenses, interest on loans, and depreciation computed on a straight-line basis. Salaries paid to the applicant or other household members from the business must also be identified and included in income. Business expenses do not include principal payments on loans, interest on loans for business expansion or capital improvements, or other expenses for business expansion or outlays for capital improvements. If the net income from a business is negative, it must be counted as zero income. A negative amount cannot be used to offset other family income.

The following documents show income verification for the previous year. Owners or their agents must consult with tenants and use this data to estimate income for the next 12 months:

- a. Copy of individual federal income tax return (1040) including any:
  - Schedule C (Small Business)
  - Schedule E (Rental Property Income)
  - Schedule F (Farm Income);
- b. Copy of Corporate or Partnership tax return (if applicable);
- c. Audited or un-audited financial statement(s) of the business (such as a recent profit and loss statement); and

- d. Applicant's notarized statement or affidavit as to net income realized from the business during the previous year.

All tax returns and related documents must be signed and dated.

For a related discussion, see [Part 880](#) (Resident-operated Businesses in LIHTC Units).

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**Part 392     Anticipated Income**

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While anticipated income from employment that has not yet been secured (as discussed in [Part 378](#) (Unemployed Adult Household Members)) does not have to be estimated and included as part of household income, anticipated income from other sources must be included if the amounts can be estimated with reasonable certainty and the date of receipt of the income can be reasonably approximated.

- *Gary is 64 years old at the time of his August 1, 2008 recertification. He will turn 65 in February 2009 and begin receiving pension benefits. Pension benefits must be included as part of Gary's household income because it is certain to occur and the amount he will receive can be estimated with reasonable certainty. [Six months of pension benefits anticipated to be received from February 2009 through July 2009 must be included as income on the August 1, 2008 recertification.]*
- *Mary has applied for Worker's Compensation benefits, but has not yet been approved for them. She thinks a decision might be made within the next few months, but that is uncertain. Because the amount and date of commencement of the benefits are unknown, anticipated income from Worker's Compensation does not have to be included as Mary's income.*
- *Brian and Jill Miller recently relocated to Michigan from out-of-state. Brian has secured a job as an electrician in Michigan. Jill is presently unemployed and has not yet secured a job in Michigan, but is actively seeking a job in the same field she worked in prior to relocating to Michigan. In her previous state of residence, she earned \$25,000 per year as a teacher's assistant. In calculating the anticipated annual income of the Miller household for purposes of determining eligibility to reside in a LIHTC unit, only Brian's employment income need be counted. No income amount needs to be counted for Jill because she is not presently employed and does not know how long it will take her to find a job. Jill must complete a Zero Income Certification (see [Part 376](#)).*
- *Same scenario as above, but Jill will continue to work out-of-state and will be joining Brian in Michigan in a few months. Since Jill is still currently employed in another state at the time the initial move-in certification is conducted, her current salary must be annualized to anticipate earnings for purposes of determining the Millers' eligibility to reside in the LIHTC unit, even though her relocation to Michigan is planned to occur later during the year. For related topics, see [Part 502](#) (Changes in Household Composition) and [Part 556](#) (Married Persons Not Living with Spouse).*

For a related discussion, see [Part 308](#) (Projected Income vs. Past Actual Income).

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**Part 394**    **Military Basic Housing Allowance**

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*H.R. 3221 "the Housing and Economic Recovery Act of 2008" (HERA)*

The recipients of the military basic housing allowance must include these amounts as income for purposes of determining LIHTC eligibility, except for that of tenants residing near qualified military bases.

As of the date of the issuance of this Compliance Manual, there are no known military bases in Michigan (and no Michigan counties which are contiguous to a qualifying military base) that meet the criteria for the exclusion of the enlistee's basic housing allowance as income.

For information about short-term or temporary income, such as unemployment compensation, see **Part 316** (Income Computations and Projects).

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## Section 3J – Select Assets

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*This Section discusses only a few types of assets. Owners and managers should thoroughly read the **HUD 4350.3** for information about asset sources.*

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### Part 396    :: Reverse Mortgages

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A reverse mortgage is a loan available to seniors and is used to release the home equity in the property as one lump sum or multiple payments (such as regular monthly amounts). The homeowner's obligation to repay the loan is deferred until the owner dies, the home is sold, or the owner leaves (e.g. into aged care). A reverse mortgage is analogous to an annuity where the principal and interest are paid with homeowner's equity.

#### Cash Value of Asset

For purposes of determining household income, a reverse mortgage is treated just like any other mortgage. It is subtracted from the fair market value of the house to arrive at cash value. The verification of fair market value is determined the same as any other house – tax assessments, appraisal, etc.

	Market Value of the House
Minus	reverse mortgage
<u>Minus</u>	<u>cost to convert to cash</u>
Equals	Cash Value

Note: The terms of the reverse mortgage must be reviewed to determine what will happen to the house at the end of the reverse mortgage – either it will be sold or returned to the bank. If the mortgage terms mandate that the house be turned over to the bank, there could possibly be divestiture of assets. If the house is returned to the bank to cover the cost of the reverse mortgage, then the amount of the reverse mortgage must be subtracted from the fair market value. This difference, if more than \$1,000, must be counted as a divestiture on the TIC for two years from the date of the closing of the reverse mortgage loan.

#### Income Earned on Asset (also termed Asset Income)

If the home owner rents the house when they move out all rent (less expenses, such as maintenance, taxes, etc.) is to be used as asset income. If the house is to remain vacant, then there would be zero income from the asset. [Note: If the home owner intends to rent the house out, but has not secured a tenant by the time the home owner commences residency in the LIHTC unit, the speculative rental income is not included as part of annual income for LIHTC purposes.]

#### Annual Income

The payments the senior citizen receives each month are not counted as income because these payments are a withdrawal of equity from the tenant's assets, not monies that are new to the

household. An exception could occur in the unlikely event that the amount of payments the senior has received as of the effective date of the LIHTC eligibility certification exceeds the equity value of the home, in which case the monthly payments from the reverse mortgage must be counted as part of annual income (this approach is similar to the way retirement accounts are treated with respect to receipt of contributed dollars).

In addition to those discussed throughout this Chapter of the Compliance Manual, other topics related to qualifying tenants for LIHTC units are contained in **Chapter 11**. Chapter 11 discusses special issues related to qualifying tenants in LIHTC projects that are combined with other government programs (Bonds, Rural Housing, Section 8, Section 236, Housing Choice Voucher, and HOME). Chapter 11 also discusses certification topics related to preservation projects and projects that receive a new, second allocation of tax credits. Chapter 11 also contains information about 1602, NSP, and TCAP projects.