

HOUSING CREDITCONNECT

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Persnickety Real Estate Issues



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- per-snick-et-y
- *adjective*
- requiring a particularly precise or careful approach.

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Discovery

- Application
- Credit Report
- Previous residence (2 years)

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What's the scoop or what you need to know.

- Who owns the real estate
- What is the status
- Rented, for sale vacant
- Is anyone living in it

Generally Speaking

- You take the fair market value less mortgage costs etc to get the cash value and plug that into your asset worksheet.

We check that the fair market value was CORRECTLY verified, that the mortgage was verified and be happy.

Maybe it is being rented and it is listed on the tax return (Schedule E) and that is pretty basic as well.

Like any asset you have the cash value and the income from the asset to consider

THE BIG BUT

When you start asking - you find a family member is living in the house

- The applicant says; I have no income, my son is paying all the expenses.
- You find the son is paying the mortgage, taxes, and operating/maintenance costs.
- None of this is listed on a tax return, *a key consideration for 3 generations of IRS program administrators.*

Situation Is

- The applicant clearly owns the house
 - Name on the deed
- The applicant is the sole person responsible for the mortgage.
 - Name on the mortgage.
- The arrangement is not treated on a tax return as a rental.
 - No Schedule E

How do you treat this asset and is there any income from the asset?

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Our opinion with IRS confirmation.

- The cash value of the house is listed as an Asset.
- There is no income from the asset.

- **BUT!!!!**

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- The amount of mortgage and taxes paid by the Son on behalf of mom is considered income for the applicant and listed on the income side/ not asset income.
- The general expenses would not be considered income to the applicant.

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According to the IRS

- If this were treated as rental income on a tax return we would take the income listed after deductions and count it on the asset side.



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From HUD

- **G. Regular Cash Contributions and Gifts**
- 1. Owners must count as income any regular contributions and gifts from
 - persons not living in the unit. These sources may include rent and utility
 - payments paid on behalf of the family, and other cash or noncash
 - contributions provided on a regular basis.



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Sadly

- It is not with pleasure that we find older applicants in this exact circumstance where the way they are handling things, for what ever reason, makes the household not income eligible
- We have been asking the IRS about these circumstances for a very long time with the same responses. Even as current as last month..

Different circumstance

- Mom has quick claimed the property to her son.
- Mom holds the mortgage.
- Son is paying the household expenses including the mortgage.

What is income and what is an asset.

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- The house is no longer an asset for the mom.
- The expenses and taxes are no longer income to the mom.
- The mortgage payment made by son on behalf of the mom is still income to her and gets counted on her income side.

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And

- Son and Mom own house
- Son and Mom on deed
- Mom on mortgage
- Son pays all expenses.

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- $\frac{1}{2}$ the house is Moms asset
- $\frac{1}{2}$ the taxes that Son pays on behalf of Mom is her income.
- Mortgage payment Son pays on behalf o Mom is her income.

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One more

- Son and Mom own house
- Both names on deed and mortgage
- Son pays all expenses.

- Count $\frac{1}{2}$ the house as Moms asset
- Count $\frac{1}{2}$ the mortgage payment that son makes on behalf of Mom as her income.
- $\frac{1}{2}$ the taxes Son pays on behalf of Mom as income.

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Point

- In all the previous scenarios it is important to be clear;
- Who owns the asset
 - Whose name is on the deed
- Is there a mortgage
 - Who's name is on the mortgage

Is it or isn't it?

- **NOTE:** If the person's main business is real estate, then count any
- income as business income under paragraph 5-6 G of the chapter. Do
- not count it both as an asset and business income.

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- We have never seen a circumstance where **we thought** an applicant to a LIHTC project had their main business as real estate.
- We do not consider one rental house a real estate business.

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- We do see instances where management tells us they do not have to count an asset, referring to the HUD reference.
- And they give us the HUD reference.

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Disclosure

- The opinions referenced in the above slides are mostly ours.
- And most likely will differ from others.
- Consider state agencies are mostly always right.
- It is ok if your agency has a different opinion.
- And we will defend our opinions and yours until we change our mind.

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- Thank you,
- Keith Garovoy, HCCP
- President
- Garovoy Compliance & Consulting LLC
- 207-319-4930
- kgarovoy@gcclihtc.com

