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**FOOD AND NUTRITION SERVICES CERTIFICATION**

**INCOME AND RESOURCES**

**FNS 390 RESOURCES**

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**FNS 390 RESOURCES**

**Change #07-2022**

**October 1, 2022**

**390.01 RESOURCES REQUIREMENTS**

**A. General Requirements**

The maximum allowable resources, including both liquid and non-liquid assets, of all members of the non-categorically eligible Food and Nutrition Services (FNS) unit shall not exceed:

- \$2,750 for the regular FNS household
- \$4,250 for the FNS units including a member or members age 60 or over, or a Specified Person. See FNS 212.02 Specified Person for definition of Specified Person.

**B. Excluded Resources.**

Do not count the following resources:

1. Belonging to Supplemental Security Income (SSI) recipients.
2. Included in a Bankruptcy Order are considered inaccessible and are excluded during the time in which they are part of the order.
3. Belonging to categorically eligible FNS units. Categorically eligible FNS units are not required to meet the resource limits. If the household is categorically eligible the household automatically passes the resource test. Do not require any resource verification. Refer to FNS 220 Categorical Eligibility for additional policy.
4. Belonging to an ineligible student.

**C. Whose resources are counted?**

Individuals residing with the FNS unit are considered household members and all of the resources of these individuals are considered available. Include 100% of countable resources for the following individuals:

1. Non-Categorically Eligible FNS unit members.
2. Ineligible aliens.

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3. Ineligible ABAWDs.
4. Disqualified individuals (including individuals who fail to provide or apply for a social security number).
5. Sponsor of an Alien.

If the Affidavit of Support was signed (or re-signed) on or after December 19, 1997, the full amount of the resources of a sponsor and his spouse (if living together) is counted to the alien's FNS unit until whichever occurs earliest:

- a. The alien becomes a citizen; **or**
- b. The alien has worked or can be credited with 40 qualifying quarters of social security coverage. Beginning January 1, 1997, a quarter in which the wage earner received federal means-tested assistance (Work First, FNS benefits, Medicaid, North Carolina Health Choice, or SSI) does not count as a qualifying quarter; **or**
- c. The alien or sponsor dies.

**390.02 VERIFICATION**

Verification of resources for **non-categorically eligible** households is required at each application, reapplication, recertification, and each reported change in resources as follows:

- A. **Accept client's statement** for the value of resources, unless the value of the resource is considered questionable. A resource is considered questionable when there is reason to believe that the reported value is incorrect, or the sum of all countable resources equals or exceeds the FNS unit's resource limit.

If verification is necessary, use the DSS-8650 Request for Information Needed to Complete Your Food Assistance to request information. Give the FNS unit ten calendar days to provide the verification.

- B. Verification of the availability or accessibility of the following type of resources is required at application. Subsequent verification is not required unless the situation changes or becomes questionable.
  1. Jointly owned resources.
  2. Resulting trust.
  3. Resources for which availability or accessibility must be established.

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A resource is inaccessible if:

- The FNS unit must petition or make an application to the clerk of court, judge, trustee, or financial institution for release of funds.
- When a trust fund can only be accessed for hardship, it is not considered accessible.
- Any funds released from the resource would be counted as income in the month received when it can be reasonably anticipated. Do not count the remaining funds as a resource.

#### **390.03 DOCUMENTATION**

Document the following information in the appropriate evidence in NC FAST.

- Verification source, including client's statement; **and**
- Date verified; **and**
- Calculations used to determine the resource value; **and**
- Countable resource value.

#### **390.04 APPLICANT FNS UNITS**

Applicant FNS units must meet the resource limit as of the date of the interview. Special procedures for determining resources at initial application are as follows:

- A. If an individual applies, is interviewed the same day, and reports excess resources, the applicant is ineligible as of the date of application. The case should be denied unless the resource is rebuttable, and the client wishes to rebut the value.
- B. If the interview is held on a day other than on the date of application, follow these guidelines.
  1. If the interview is conducted in the month of application and the FNS unit is eligible by the date of interview, approve the application effective the date of application.
  2. If the interview is conducted in the month following the month of application, and the FNS unit had excess resources on the date of application but is eligible by the date of interview, deny assistance for the first month and approve the application effective the first calendar day of the second month.

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3. If the FNS unit was eligible on the date of application, but ineligible due to excess resources by the date of interview and the interview is conducted during the month of application, deny the application.
4. If the interview is conducted in the month following the month of application, and the FNS unit is eligible on the date of application but ineligible due to excess resources by the date of interview, approve the application for the first month and deny assistance for the second month.

**390.05                      COUNTABLE/EXCLUDABLE REFERENCE LIST OF RESOURCES**

Resource Item	Yes	No	Manual Section
Achieving a Better Life Experience (ABLE) accounts are tax-favored savings accounts established to provide secure funding for disability related expenses on behalf of designated beneficiaries deemed disabled before age 26. Note: The funds in ABLE accounts should be excluded as both income and resources.		N	390.14
Agent Orange Settlement payments or similar funds which are disbursed by the AETNA Insurance Company to veterans or surviving spouses and children. NOTE: Veteran's Administration (VA) benefits received for a service connected disability resulting from exposure to Agent Orange.		N	390.14
Alaska Native Claims Settlement Act payments.		N	390.14
Allowances paid under the law to Vietnam veterans' child(ren) born with spina bifida and other birth defects.		N	390.14
Annuities		N	
Battered Women's Resources - Jointly owned with a former household member and access is dependent on the agreement of the joint owner		N	390.14
Boats		N	390.14
Bonds	Y		390.08
Buildings, regardless of location		N	390.14
Burial Plans/Plots/Spaces		N	390.14

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Business Liens (against property) <ul style="list-style-type: none"> <li>Liquid resources that are not accessible to the FNS unit</li> <li>Non-liquid resources that the FNS unit is prohibited from selling as a part of the lien agreement</li> </ul>		N N	390.14
Business Resources <ul style="list-style-type: none"> <li>Incorporated</li> <li>Unincorporated</li> </ul>	Y	N	390.14
Cash	Y		390.06
Checking Accounts	Y		390.08
Certificates of Deposit (CD)	Y		390.08
Child Tax Credit Disregard the month of receipt and the month following receipt.	Y		390.07
Combined Funds (countable and excluded funds commingled) <ul style="list-style-type: none"> <li>Combined less than or equal to 6 months</li> <li>Excluded funds combined more than 6 months</li> </ul> Note: This includes funds from Educational Loans/Aid.	Y	N	390.14
Contract Sales		N	390.14
Crowdfunding Accounts-online platforms that allow individual donors to fund specific campaigns for charity, individuals in need, projects, and business ventures. <ul style="list-style-type: none"> <li>GoFundMe,</li> <li>Kickstarter, and</li> <li>Indiegogo</li> </ul> Note: Count the actual value of funds accessible to the household at the time of the interview.	Y		390.13
Disaster Payments made by the Individual and Family Grant (IFG) Program or the Small Business Administration (SBA) designed for the restoration of a home damaged in a disaster. Such designation must state that the FNS unit is subject to a legal sanction if funds are not used as intended.		N	
Disaster Relief and Emergency Assistance payments, including Federal Emergency Management Assistance (FEMA), made as a result of a major disaster.		N	
Earned Income Tax Credit (EITC)		N	390.14
Educational Accounts Exclude funds in accounts established under Sec. 529 (qualified tuition program) and 530 (Coverdell education savings) of the Internal Revenue Code.		N	

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Educational Aid, Loans and Scholarships (See Combined Funds)	Y	N	390.14
Energy Assistance		N	390.14
Equity Line of Credit Note: Money withdrawn from the line of credit and available would count as a resource.		N	
Escrow Account (Mortgage)		N	390.14
Excluded by Law		N	390.14
Farm Equipment		N	390.14
FEMA payments that were commingled with non-excluded funds 6 months prior.	Y		
Gambling winnings in excess of \$4,250	Y		390.20
GI Bill Funds		N	390.14
Gift Cards		N	
Heir Property		N	390.14
Household Goods/Personal Effects		N	390.14
Housing and Urban Development (HUD) retroactive tax and subsidy payments issued pursuant to settlement of Underwood v. Harris.		N	
Individual Development Accounts (IDA)		N	390.14
Income Producing Property		N	
Indian funds and lands.		N	
Indian lands held jointly with the tribe or land that can be sold only with the approval of the Bureau of Indian Affairs (BIA).		N	
Jointly Owned Resources, if inaccessible		N	390.17
Land, regardless of location		N	390.14
Land Payments for land held in trust by the U.S. for certain Indian tribes		N	390.15
Life Insurance (Cash Value)		N	
Lifetime Right (Life Estate)		N	390.14
Loans Note: Count remaining cash and money in a checking, savings, or CD unless the money is Disaster Relief and Emergency Assistance payments, including Federal Emergency Management Assistance (FEMA). Educational loans combined with countable funds in a checking, savings, or CD for more than 6 months is a countable resource. (See Combined Funds on how to count funds that were prorated as income.)	Y		

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Lottery winnings in excess of \$4,250	Y		390.20
Lump sum, non-recurring	Y		390.13
Mobile Homes		N	390.14
Mutual Funds Note: The North Carolina National College Savings Program is a mutual fund designed to save money for college tuition. This is considered a countable resource.	Y		390.08
NCKIDS Debit Cards	Y		390.08
Payments made to individuals because of their status as victims of Nazi persecution.		N	
Payments Counted as Income		N	
National Flood Insurance Program (NFIP) Payments		N	
Pension Plans/Retirement listed below. <ul style="list-style-type: none"> <li>• 401 Plans</li> <li>• 401(a) Plans</li> <li>• 403(a) Plans</li> <li>• 403(b) Plans</li> <li>• 408 Plans</li> <li>• 408(A) Plans</li> <li>• 408(p) Plans</li> <li>• 408(k) Plans</li> <li>• 457(b) Plans</li> <li>• 501(c)(18) Plans</li> <li>• Section 8439 of Title 5 USC</li> </ul>		N	390.09
Promissory Note	Y		390.12
Property in Probate		N	390.14
Radiation Exposure Compensation Act payments These payments are provided to individuals for injuries or death resulting from nuclear testing or uranium mining in Arizona, Nevada, and Utah.		N	
Real Property (Land or Buildings) including mobile homes		N	390.14
Remainder Interest		N	390.14
Resulting Trust		N	390.18
Reverse Resulting Trust	Y		390.19
Retirement <ul style="list-style-type: none"> <li>• Accessible</li> <li>• Inaccessible</li> </ul>	Y	N	390.09
Savings Account	Y		390.08

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Security Deposit being held (Rent/Utilities)		N	
Severance Pay Note: Count as income in the month it is received. Count as reserve in the following months.	Y		
Significant Return - Cannot Be Sold for a Significant Return		N	390.14
Special Supplemental Food and Nutrition Services Program for Women, Infants, and Children (WIC) benefits.		N	
Stocks	Y		390.08
Time Share Contracts		N	
Title I of the Domestic Volunteer Services Act of 1973 payments for such programs as VISTA, University Year for Action, and the Urban Crime Prevention Program.		N	
Transferred Resources	Y		390.16
Trust Funds • Accessible • Inaccessible	Y	N	390.10
Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 Reimbursements		N	
UTTA (Uniform Transfer to Minors) Account	Y		390.11
Vehicles Note: An automobile or other vehicle used for transportation. This includes boats.		N	390.14
Wartime Relocation of Civilian Law payments which are provided to certain citizens of Japanese ancestry, Japanese aliens, and Aleuts.		N	
Worker's Compensation Medicare Set-aside Arrangement (WCMSA) Note: Medical bills paid by these funds would not be allowed as a medical deduction.		N	

**390.06 CASH**

- A. Determine how much cash all FNS unit members have. Accept the applicant's statement, unless questionable.
- B. Count as resources all cash except money that is counted as income in the month received or income that has been prorated and counted as monthly income.



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**390.07 CHILD TAX CREDIT**

This is a tax credit for families with children that have earnings; this is not the earned income tax credit. The child tax credit allows families to claim a refundable income tax credit of up to \$2,000 per child. This credit is excluded from consideration as a resource for the month of receipt and the month following receipt.

**EXAMPLE 1:** Household applies for FNS benefits in June. The household reports that they have \$4,500 in the bank which is the result of an \$8,000 tax refund received in May. The household is not categorically eligible. The household provides verification that the Earned Income Credit (EIC) portion of the refund was \$950, and the Child Tax Credit is \$2,000. When the EIC and Child Tax Credit (\$1,950) are subtracted from the remaining balance the countable resource is \$2,550. The FNS household is ineligible.

**EXAMPLE 2:** Household applies for FNS benefits in June. The household reports that they have \$3,750 in the bank which is the result of an \$8,000 tax refund received in May. The household is not categorically eligible. The household provides verification that the EIC portion of the refund was \$950, and the Child Tax Credit was \$2,000. When the EIC and Child Tax Credit (\$4,250 - \$1,950) are subtracted from the remaining balance the countable resource is \$2,300. The FNS household is eligible.

**EXAMPLE 3:** FNS household submits recertification in June. The household reports that they have \$4,500 in the bank which is the result of an \$8,000 tax refund received in April. The household is not categorically eligible. The household provides verification that the EIC portion of the refund was \$655, and the Child Tax Credit was \$1,000. When the EIC of (\$950) is subtracted from the remaining balance the countable resource is \$3,845. The Child Tax Credit is no longer exempt. The FNS household is ineligible.

**390.08 CHECKING ACCOUNTS, SAVINGS ACCOUNTS, CERTIFICATES OF DEPOSIT (CD'S), STOCKS/BONDS, MUTUAL FUNDS, AND NCKIDS DEBIT CARD**

- A. Determine if anyone in the FNS unit has any of the above. Accept the applicant's statement, unless questionable.
- B. Document the name of the financial institution, the account number if known, who owns the account, and the account value.
- C. Subtract from the account value any money which was counted as income in the month and any penalties or fees for early withdrawal. Subtract any outstanding

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checks. This is very crucial if a FNS unit is close to the resource limit. Count the remainder as the resource.

D. If verification is necessary:

1. Use the DSS-8650 to request information.
2. If the FNS unit states that verification of any financial account is not readily available or requests assistance, explain the Financial Privacy Act as outlined on the DSS-3431.
3. Request the FNS unit to provide within ten calendar days a DSS-3431 signed by all account holders. When the signed DSS-3431 is provided, contact the bank or financial institution to verify account balances.

**NOTE:** Clients with NCKIDS debit accounts receive free monthly statements or the balance can be obtained through the internet.

**390.09 RETIREMENT ACCOUNTS/PLANS**

Exclude all tax-deferred retirement accounts. Exclude any funds in a plan, contract or account described in the following sections of the IRS code from consideration as a resource.

**NOTE:** Any funds released from these accounts would be counted as income received when it can be reasonably anticipated. Do not count the remaining funds as a resource.

<b>Authorized</b>	<b>Plan/Account</b>	<b>What Is It?</b>
Section 401 IRS Code	Traditional Defined-Benefit Plan	Employer-based retirement plan that promises retirees a certain benefit upon retirement, regardless of investment performance.
Section 401(a) IRS Code	Cash Balance Plan	Employer-based “hybrid” plan that combines features of defined benefit and defined contribution plans. Each employee is allocated a hypothetical account, but account balances accrue at a specified rate, rather than depending on investment performance.
Section 401(a) IRS Code	Employee Stock Ownership Plan	Similar to a profit-sharing plan that must be primarily invested in the employer’s stock and under which distributed benefits must be offered in the form of the employer’s stock.

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Section 401(a) IRS Code	Keogh Plan	“Informal” term for retirement plans available to self-employed people.
Section 401(a) IRS Code	Money Purchase Pension Plan	Employer-based defined contribution plan under which annual contributions are fixed by a set formula.
Section 401(a) IRS Code	Profit-Sharing Plan	Employer-based defined contribution plan under which employer contributions may, but need not be, linked to profits. Usually refers to non-matching employer contributions
Section 401(a) IRS Code	Simple 401(k)	401(k)-type plans available only to small businesses: exempt from certain restrictions and subject to some limitations on employer contributions.
Section 401(a) IRS Code	401(k)	Defined contribution plan that allows employees to defer receiving compensation in order to have the amount contributed to the plan. Commonly referred to as a “cash or deferred arrangement” (CODA). Some 401(k) plans allow after-tax Roth 401(k) contributions.
Section 403(a) IRS Code	403(a)	Plans that are similar to 401(a) plans but are funded through annuity insurance
Section 403(b)	403(b)	Tax-sheltered annuity or custodial account plan offered by tax-exempt section 501(c) organizations or public schools. Many are funded by employee contributions that resemble 401(k)s.
Section 408 IRS Code	IRA	Vehicle for tax-deferred retirement savings controlled by individuals rather than employers
Section 408(p) IRS Code	Simple retirement account IRA	Employer-based IRA (to which employers and employees contribute) available to small businesses.
Section 408(k) IRS Code	Simplified Employee Pension Plan (SEP)	Employer-sponsored plan available only to small businesses; allows employer to contribute to employee accounts that function as IRAs and are subject mostly to IRA rules. Generally ceased to apply in 1996.
Section 408A IRS Code	Roth IRA	Same as IRA, except that qualified distributions are tax exempt.
Section 457(b) IRS Code	Eligible 457(b) Plan	Funded plan offered by state and local governments or unfunded plan offered by nonprofit organizations.
Section 501(c)(18)	Section 501(c)(18)	Plan offered mostly by unions. Had to be set by June 1959 and are now largely obsolete.

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Section 8439 of Title 5 USC	Federal Thrift Savings Plan	Plan offered by the federal government to its employees.
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**390.10 TRUST ACCOUNTS**

- A. Determine if anyone in the FNS unit has trust accounts. Accept the applicant's statement of the value, unless questionable.
- B. Verify accessibility of the account through the administrator of the trust, the Clerk of Court's Office, the bank or financial institution in which the trust is invested, or by seeing the trust agreement.
- C. If verification of the value is necessary, use the DSS-8650 to request information. If the FNS unit states the information is not readily available or requests assistance, contact the trustee or administrator to request verification. Count as resources the value of an accessible trust account (less any fees by the trustee or administrator).

**390.11 UNIFORM TRANSFER TO MINORS ACCOUNT**

These accounts are "custodial accounts" for minors. A donor (who may or may not be the custodian) gives money irrevocably to set up an account for a minor. For the purposes of these accounts anyone under 21 is considered a minor. The custodian of the account has complete access and may withdraw money (though it is to be used to benefit the minor) at any time. The bank or credit union does not verify the purpose of the withdrawal; therefore, the account is a countable resource to the FNS unit of the custodian.

**390.12 PROMISSORY NOTES**

Determine if any FNS unit has any promissory notes. Accept the applicant's statement, unless questionable.

- A. A promissory note is a written promise made by one or more persons to pay another a specified amount of money at a specified time or on demand.
- B. Document who owns the promissory note and how much is owed on the note.
  - 1. Use the DSS-8650 to request verification of what is owed.
  - 2. If the FNS unit states the information is not readily available or requests assistance, provide assistance.

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**390.13           NON-RECURRING LUMP-SUM PAYMENTS**

Determine if any FSU member has received any non-recurring lump-sum payments. Accept the applicant's statement, unless questionable.

Non-recurring lump-sum payments are payments received in one payment rather than recurring payments. Non-recurring lump-sum payments include, but are not limited to:

- A. Income tax refunds (excluding Earned Income Tax Credits [EITC]).
- B. Rebates or credits.
- C. Gifts, awards, and prizes.
- D. Retroactive social security payments.
- E. Retroactive SSI payments (exclude if current SSI recipient).
- F. Retroactive unemployment insurance benefits (UIB).
- G. Retroactive TANF payments.
- H. Retroactive Railroad Retirement benefit.
- I. Stimulus payments.
- J. Lump-sum insurance settlements.
- K. Lottery / Gambling Winnings less than \$4,250.

Document who received the lump sum, the source, the amount, when received, and how much of the lump sum is still available to the FNS unit. Use the DSS-8650 to request verification. If the FNS unit states the information is not readily available or requests assistance, contact the source. Count the amount that is still available as a resource.

- L. Online fundraising accounts such as but not limited to Crowdfunding and GoFundMe.

Count the actual value of funds accessible to the household at the time of the interview. There is no legal basis for excluding funds in online accounts, these accounts must be included in eligibility determinations, even if the funds are used for specific deductible expenses. Once the funds from the account, or any other funds available to the household, are used to pay for an expense that qualifies as an allowable deduction, apply the deduction. If the client has access to the funds from

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the online account and has not used these funds for a qualified expense, then those funds should be counted as a liquid resource.

**390.14 NON-COUNTABLE RESOURCES**

In determining the resources of a FNS unit, the following shall be excluded:

A. Household goods and personal effects, including clothing, furniture, jewelry, kitchen items, household appliances, pets, etc.

B. Mortgage Escrow Accounts.

A mortgage escrow account is a bank account held generally in the name of the depositor and the escrow agent (usually the mortgage holder) which is used to pay taxes, mortgage insurance, fire insurance, etc.

C. Installment contract sales which are producing income consistent with the fair market value.

D. Resources of an incorporated business.

E. Payments counted as income, such as those of students or self-employed persons, which were prorated as income for the period intended to cover. Exclude from resources the portion of any resource counted as income.

F. Payments or allowances made under federal, state, and local laws for the purpose of energy assistance.

G. EITC is a credit subtracted from the amount of tax withheld to help offset increased living expenses for low-income families. The credit can be received either as a yearly lump sum or with the payroll earnings.

1. Exclude these payments for 12 months from the month of receipt. (Month of receipt is month 1 of the 12-month exclusion period.)

2. To allow this exclusion, the individual who received the EITC payment must:

a. Have been a FNS participant when the payment was received; and

b. Continue to participate in the FNS program throughout the 12-month exclusionary period. (Breaks in participation of one month or less due to administrative reasons, such as delayed recertification or missing or late quarterly reports, shall not be considered as non-participation in determining the 12-month exclusion.)

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3. Count as a resource any of the EITC payments left at the end of the 12-month exclusion period. Use NCFASST to track the exclusionary period. Flag the case for review in the 11th month of exclusion.
- H. GI Bill funds set aside as a mandatory salary reduction for military personnel which is used to fund the Veteran's Educational Act of 1984. This can be verified by viewing the Leave and Earnings Statement (LES) of the military personnel.
- I. Resources of Battered Woman.
  1. If the applicant resides in a shelter for battered spouses and children, exclude resources owned jointly with a former household member if the shelter resident's access to the value of the resource is dependent on the agreement of a joint owner who still resides in the former household.
  2. A battered spouse's shelter is a public or private non-profit residential facility that serves battered spouses and children. If the facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered spouses and children.
- J. Property That Cannot Be Sold for a Significant Return.

This resource is unlikely to produce any significant amount of funds for the support of the household if sold or disposed of. This can occur if the household's interest is relatively slight or because the costs of selling the household's interest would be relatively great. (The expected cost to sell the resource must be at least 50 percent or more of the applicable resource limit of the household and the full value of the resource is less than \$2,750.) This does not apply to vehicles or financial instruments such as stocks, bonds or negotiables.

- K. Combined Funds.

Do not count as a resource any excluded funds that are kept in a separate account.

Exclude these funds when combined in an account with countable funds for six months from the date of commingling the funds. For example: Disaster-related funds deposited into the FNS unit's savings account.

The excluded resources of students and self-employed members which were prorated as income and are then commingled with countable funds retain their exclusion for the period of time over which they were prorated.

After the exclusion period, all funds in the commingled account are counted as a resource.

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L. Asset(s) With a Business Lien.

If a business lien has been placed against non-liquid assets as a result of taking out a business loan and the FNS unit is prohibited by the security or lien agreement with the lien holder (creditor) from selling the asset, exclude from resources. If a liquid asset is not accessible due to a business lien, do not count in resources. Such as but not limited to a savings account or CD used as collateral.

M. Individual Development Accounts.

N. Payments made to child(ren) of Vietnam veterans who are born with spina bifida.

O. Heir Property conveyed to any FNS unit member at death of the property owner.

P. All Burial Plans/Plots/Spaces owned by FNS unit member.

Q. Lifetime Estate.

A person has a lifetime right when he has a claim or interest in real or personal property limited to his lifetime but does not actually own the property.

R. Remainder Interest.

A person has remainder interest in property when he owns the property, and another individual has the lifetime right.

S. All land and buildings, including mobile homes.

T. Motor Vehicles – defined as an automobile or other vehicle used for transportation. This includes boats.

U. Achieving a Better Life Experience (ABLE) accounts defined as tax-favored savings accounts established to provide secure funding for disability related expenses on behalf of designated beneficiaries deemed disabled before age 26.

**390.15 CERTAIN PAYMENTS OR FUNDS FOR CERTAIN INDIAN TRIBES ARE EXCLUDED. THESE INCLUDE:**

A. Payments received by certain Indian tribe members from certain submarginal land held in trust by the United States. These tribes and Bands include:

1. Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin.
2. Blackfeet Tribe.
3. Cherokee Nation of Oklahoma.



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4. Cheyenne River Sioux Tribe.
  5. Crow Creek Sioux Tribe.
  6. Lower Brule Sioux Tribe.
  7. Devils Lake Sioux Tribe.
  8. Fort Belknap Indian Community.
  9. Assiniboine and Sioux Tribes.
  10. Lac Courte Oreilles Band of Lake Superior Chippewa Keweenaw Bay Indian Community.
  11. Minnesota Chippewa Tribe.
  12. Navajo Tribe.
  13. Oglala Sioux Tribe.
  14. Rosebud Sioux Tribe.
  15. Shoshone-Bannock Tribes.
  16. Standing Rock Sioux Tribe.
- B. Payments received from the disposition of funds to the Grand River Band of Ottawa Indians.
- C. Payments received by the Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation.
- D. Payments to the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet or any of their members received pursuant to the Maine Indian Claims Settlement Act of 1980.
- E. Relocation assistance to members of the Navajo and Hopi Tribes.
- F. Payments to the Turtle Mountain Band of Chippewas, Arizona.
- G. Payments to the Blackfeet, Grosventre, and the Assiniboine Tribes (Montana) and the Papago (Arizona).

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- H. Per capita and interest payments to the Assiniboine Tribe of the Fort Belknap Indian Community and the Assiniboine Tribe of the Fort Peck Indian Reservation (Montana).
- I. Payments to the Red Lake Band of Chippewas.
- J. Payments to the Saginaw Chippewa Indian Tribe of Michigan.
- K. Per capita payments to the Chippewas of Mississippi.
- L. Payments to heirs of deceased Indians under the Old Age Assistance Claims Settlement Act except for per capita shares in excess of \$2,750.
- M. Per capita payments of \$2,750 or less, under the Indian Judgment Fund Act and per capita payments from funds held in trust by the Secretary of the Interior.
- N. Per capita payments or funds held in trust for the Sac and Fox Tribes of Oklahoma and the Sac and Fox Tribes of Mississippi in Iowa.
- O. Payments to the Seminole Nation of Oklahoma, Seminole Tribe of Florida, the Miccosukee Tribe of Indians in Florida, and the independent Seminole Indians of Florida except for per capita shares in excess of \$2,750.
- P. Payments received under the White Earth Reservation Land Settlement Act to members of the White Earth Band of Chippewa Indians in Minnesota.
- Q. Payments or funds received under the Seneca Nation Settlement Act.
- R. Payments made to the Puyallup Tribe of Washington.
- S. Per capita payments or funds held in trust for members of the Chippewas of Lake Superior on the following reservations:
  - 1. Wisconsin:
    - a. Bad River Reservation.
    - b. Lac du Flambeau Reservation.
    - c. Lac Courte Oreilles Reservation.
    - d. Sokaogon Chippewa Community.
    - e. Red Cliff Reservation.
    - f. St. Croix Reservation.

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2. Michigan:
  - a. Keweenaw Bay Indian Community (L'Anse, Lac Vieux, Desert, and Ontonagon Bands).
3. Minnesota:
  - a. Fond du Lac Reservation.
  - b. Grand Portage Reservation Neff Lake Reservation (including Vermillion Lake and Dear Creek).
  - c. White Earth Reservation.

**390.16 TRANSFER OF RESOURCES**

- A. Determine if any member of the FNS unit has transferred any countable resource in the last three months. Accept the applicant's statement, unless questionable.
- B. Document when the transfer took place and why the member transferred the resource.
- C. If the FNS unit states the resource was transferred solely to receive FNS benefits, evaluate to determine if the transfer of resource disqualification must be applied.
  1. Determine what resource was transferred and whether it must be counted or excluded.
  2. Determine which FNS unit member transferred the resource and to whom it was transferred.
  3. If the resource was transferred between FNS unit members or excluded unit members whose resources are countable to the FNS unit, the household is not subject to the disqualification for transfer.
  4. If the FNS unit is subject to the transfer of resource disqualification, determine the value of the transferred resource.

**NOTE:** If the FNS unit states the resource was transferred for any reason other than to obtain FNS benefits, the FNS unit is not subject to the transfer of resource disqualification.

- D. If the resource, when added to other countable resources, exceeds the allowable resource limit for the FNS unit, determine if the resource was sold or traded at, or near, fair market value.

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1. If yes, the FNS unit is not subject to the transfer of resource disqualification.
2. If the amount received is less than the fair market value, follow these procedures to disqualify the FNS unit.
  - a. Applicant FNS Units.
    - i. Obtain a signed statement from the applicant regarding the facts of the transfer.
    - ii. If the applicant refuses to sign a statement, document the applicant's verbal response in the case file.
    - iii. Determine the length of the disqualification period according to instructions in 390.16 E.
    - iv. Send the FNS unit a denial notice explaining the reason for the denial as well as the length of the disqualification period.
    - v. Disqualify the FNS unit beginning with the month of application.
  - b. Participating FNS Units.
    - i. Obtain a signed statement from the recipient regarding the facts of the transfer.
    - ii. If the recipient refuses to sign the statement, document the recipient's verbal statements in the case file.
    - iii. Determine the disqualification period according to the instructions in 390.16 E.
    - iv. Send the FNS unit a DSS-8553 Notice of Adverse Action to terminate its FNS benefits.
    - v. Explain the reason for the termination as well as the length of the disqualification period.
    - vi. Unless the FNS unit requests a hearing and receives continued benefits, disqualify the FNS unit beginning with the month after the DSS-8553 expires.
- E. Determine the length of the disqualification period.
  1. Add the value of the transferred resource to the other resources of the FNS unit.

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2. Subtract the resource limit from the amount calculated and use this amount to determine the disqualification period from the chart below.
3. The maximum disqualification period is 12 months.

Amount in Excess of The Resource Limit	Length of Disqualification
0.00 – 249.99	1 month
390.00 - 999.99	3 months
1,000.00 - 2,999.99	6 months
3,000.00 – 4,999.99	9 months
5,000.00 – up	12 months

**EXAMPLE:** An applicant FNS unit with \$1,260 in a savings account transfers ownership of stock worth \$1,000 for less than fair market value. When added together, they total \$2,260. The resource limit for the FNS unit is \$2,750. When \$2,750 is subtracted from \$2,260, the result is \$490. According to the chart, \$490 results in a three-month disqualification.

**390.17 JOINTLY OWNED RESOURCES**

- A. The value of resources jointly owned by separate households will be considered available to each household, unless inaccessibility can be proven. The following are considered inaccessible:
  1. Resources in probate proceedings.
  2. Resources in divorce litigation.
  3. Resources subject to a legal separation agreement.
  4. Bank accounts of a service person being deployed overseas when access to the account is solely for the purpose of paying the serviceperson’s bills. The household must document that it can access the account solely for the purpose of paying the serviceperson’s bills, etc., and the household cannot use the funds for itself. It is the responsibility of the applicant/recipient household to provide documentation concerning the arrangement. This could be in the form of a

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written statement from the serviceperson to this effect, a statement from the involved financial institution, or other means attesting to the fact.

- B. If the household can demonstrate that it has access to only a portion of the resource, the value of that portion will be counted toward the household's resource level.
- C. If a legally binding agreement specifying division exists, divide the resource according to the terms of the agreement.
- D. Jointly owned bank accounts in North Carolina are accessible by **all** joint owners in **their entirety** unless there is a trust (including a resulting trust, see 390.18 Resulting Trust) or legal agreement indicating otherwise. These accounts are not excluded. This also applies to accounts jointly owned with a spouse. (Refer to A. for bank accounts of serviceperson's who are deployed overseas.)

**Example:** Mary has been separated and living apart from her spouse for 2 years. Mary has a joint savings account with her spouse, who already receives FNS benefits. Mary is applying for FNS benefits for herself. The savings account has \$55,000 in it as of time of interview. Because jointly owned bank accounts in NC are accessible to all joint owners in their entirety unless a trust exist, Mary has total resources of \$55,000. In addition, Mary's spouse has total resources of \$55,000.

- E. Divide the equity value of the property by the number of owners to determine the FNS unit's share, unless inaccessibility is established.
- F. The resource shall be considered totally inaccessible to the household if it cannot be practically subdivided (The value realized from selling the parts would be significantly reduced from the value of selling the entire resource.), and the household's access is dependent on the agreement of a joint owner who refuses to comply.
- G. Determine if the resource is available to the FNS unit and the FNS unit member can dispose of the resource or his interest in the resource without the consent of the other owner(s), including a spouse or former spouse.
  - 1. If yes, count the resource as available to the FNS unit.
  - 2. If no, contact the other owner(s) regarding their agreement to dispose of the resource.
    - a. If consent is granted, count the resource as available to the FNS unit.

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- b. Do not count if the other owner refuses to dispose of the resource.
  - c. If the other owner fails to respond, do not count the FNS unit member's share.
- H. Resources jointly owned by residents of shelters for battered women and children and a former household member are considered inaccessible if access to the value of the resource is dependent on the agreement of the joint owner who still resides in the former household.
- I. Request verification of the value of jointly owned resources at application and when there is reason to believe the joint ownership has changed.

**390.18      RESULTING TRUST**

When the FNS unit states that it is party to a resulting trust, use this section to determine if the value of the property must be counted or excluded.

- A. A resulting trust exists when a person:
- 1. Has resources in his name for the benefit of another person; and
  - 2. Did not contribute his own funds to the resource; and
  - 3. Retains no legal interest in the resource; and
  - 4. Would not benefit from the use or the disposal of the resource.
- B. A resulting trust can be established for any type of resource, including, but not limited to:
- 1. Stocks and Bonds.
  - 2. Bank Accounts.

**Example:** A FNS unit member has his name on his mother's checking account because his mother is in a nursing home. The money in the account is his mother's money and is used to pay her bills. Since a resulting trust exists, do not count the money in the account as a resource to the applicant.

- C. These procedures also apply if a resulting trust exists between a FNS unit member and a Work First and SSI recipient. If the resulting trust is between spouses and there has been no legal divorce, count the value of the property since a resulting trust cannot exist between spouses.

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- D. At application and when there is reason to believe the situation has changed, verify availability and ownership of the resource. Use the DSS-8650 to request information. If the FNS unit requests assistance, assist in obtaining the verification.
- E. Document the resulting trust using:
  - 1. Written agreement between the FNS unit member and other resulting trust parties; or
  - 2. Canceled checks or receipts for payment on a mortgage, loan, etc. that verify the terms of the agreement; or
  - 3. Signed statements from a lending institution, loan office, insurance company; or
  - 4. Other knowledgeable source who can verify the resulting trust; or
  - 5. Signed statements from at least two knowledgeable individuals who can verify the resulting trust.
- F. If the FNS unit does not provide the verification necessary to determine if a resulting trust exists, count the entire value of the property in the FNS unit's resources. If verification is provided and a resulting trust exists, exclude the entire value of the property as inaccessible to the FNS unit.

**390.19 REVERSE RESULTING TRUST**

- A. A reverse resulting trust exists when a non-FNS unit member:
  - 1. Has a resource in his name for the benefit of a FNS unit member; and
  - 2. The non-FNS unit member did not contribute his own funds to the resource; and
  - 3. The non-FNS unit member retains no legal interest in the resource; and
  - 4. The non-FNS unit member would not benefit from the use or disposal of the resource.
- B. A reverse resulting trust can be established for any type of resource, including, but not limited to:
  - 1. Stocks and Bonds.
  - 2. Bank Accounts.
- C. These procedures also apply if a reverse resulting trust exists between a FNS unit member and a Work First and SSI recipient. If the reverse resulting trust is between



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spouses and there has been no legal divorce, count the value of the property since a resulting trust cannot exist between spouses.

- D. Verification is required at application and when there is reason to believe the situation has changed.
  - 1. Verify availability and ownership of the resource.
  - 2. Use the DSS-8650 to request information.
  - 3. If the FNS unit requests assistance, assist in obtaining the verification.
- E. Document the reverse resulting trust using:
  - 1. A written agreement between the FNS unit member and other reverse resulting trust parties, or
  - 2. Canceled checks or receipts for payment on a mortgage, loan, etc. that verify the terms of the agreement; or
  - 3. Signed statements from a lending institution, loan office, insurance company; or
  - 4. Any other knowledgeable source who can verify the resulting trust; or
  - 5. Signed statements from at least two knowledgeable individuals who can verify the resulting trust.
- F. If the FNS unit does not provide the verification necessary to determine if a reverse resulting trust exists, count the entire value of the property in the FNS unit's resources based on the client's written statement. If verification is provided and a reverse resulting trust exists, count the entire value of the property as accessible to the FNS unit.

**390.20 Lottery/Gambling Winnings**

- A. FNS units, including Categorically Eligible FNS units, that contain any member who receives lottery/gambling winnings of \$4,250 or more are ineligible to participate in the FNS program and **must** lose eligibility. The FNS units are ineligible until they reapply for benefits and meet all non-categorical eligible financial resources and income eligibility requirements.

**Note:** If multiple individuals shared in the purchase of a ticket or bet then count only the portion of the winnings allocated to the member(s) of the FNS unit.

- B. Participating FNS Units.

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1. FNS units are required to report lottery/gambling winnings of \$4,250 or more no later than the 10<sup>th</sup> day following the month the winnings are received.
2. The FNS unit is ineligible to continue to participate in the FNS program. The worker must send a DSS-8553 Notice of Adverse Action to terminate the FNS case due to the lottery/gambling winnings. The FNS case must close based on receipt of the lottery/gambling winnings, regardless of the FNS units' available resources at the time of the report.

**Example:** John Doe wins \$5000 from a scratch-off ticket. John Doe reports his total winnings of \$5000 and states that he spent \$4000 of the winnings to catch up on his overdue bills. John Doe's case **must** close based on the receipt of the lottery winnings. John Doe may reapply at any time and evaluated as a non-categorically eligible household.

C. Applicant FNS units.

1. When the FNS unit reapplies after losing eligibility due to receipt of lottery/gambling winnings they must meet all regular financial resources limits and income eligibility to regain eligibility. Categorical eligibility rules cannot be applied to FNS unit's application.

**Note:** After the FNS unit reapplies and is found eligible using regular non-categorical eligibility rules, they may regain categorical eligibility at the next change, recertification, or application.

2. When a member of the FNS unit (including Head of Household) that lost eligibility due to receipt of lottery/gambling winnings moves out of the FNS unit, the household composition of the original FNS unit no longer exist. The separate households may reapply and have eligibility determined using normal FNS rules, including categorical eligibility rules, if applicable.

**Example:** John Smith and Jane Doe are members of the same FNS unit. John Smith wins \$5000 from a scratch-off ticket. The FNS unit is ineligible to continue participation in the FNS program. After receiving the DSS-8553 Notice of Adverse Action, Jane Doe reports that John Smith has moved out of the home. The FNS unit must terminate. However, the household composition of the original FNS unit no longer exist and both Jane Doe and John Smith may reapply and have eligibility determined using normal FNS rules, including categorical eligibility rules.