

## HOUSING

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## Kutak Rock Client Alert

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### 2022 MRB/MCC Safe Harbor Income Limits Available Soon

Last year the IRS released [Rev. Proc. 2021-19](#), in which the IRS finally provided permanent safe harbor income limit guidance for single-family mortgage revenue bonds (MRBs) and mortgage credit certificates (MCCs), by reference to the income numbers annually released by HUD (usually on April 1 of each year). In the Rev. Proc., the IRS stated that every year the area median income will be either the current HUD publication of area median incomes or the previous year HUD publication of area median incomes. The choice of the applicable area median income numbers to be applied in a particular year is at the option of the issuer of the MRBs or the sponsor of the MCC program, and with respect to any county/MSA can be the greater of the state median income number or the local county/MSA income number. The income test is applied at the time that the mortgage loan or the MCC is committed to the mortgagor. Furthermore, as a transition rule, for 90 days following HUD's publication of new median income tables, the issuer has the option of using the HUD median income table from two years prior.

With respect to the high housing cost calculation of Section 143(f)(5) of the Internal Revenue Code, the issuer must use the HUD income limits from the same year for all purposes under Section 143. The high housing cost calculation does not permit an issuer to use purchase price numbers from one year and income numbers from another year. Therefore, once the IRS publishes its annual Revenue Ruling with the new average purchase prices (expected soon), an issuer computing high housing cost calculations for 2022 using 2022 income limits must use the 2022 national purchase price and the 2022 average area purchase price. An issuer cannot use 2021 income limits and 2022 purchase price limits to calculate the 2022 high housing cost limits. However, by virtue of the ability to use the 2021 income limits, an issuer can still use the 2021 high housing cost limits so long as those calculations use the 2021 income and purchase price limits.

Note that these income limit determinations apply only to single-family MRBs and MCCs. For multifamily bonds under Section 142(d), the income of tenants must be determined annually and apply the most recent HUD median income table.

If you have any questions, please contact one of the attorneys in Kutak Rock's [Housing Finance Agency Practice Group](#). You may also visit us at [www.KutakRock.com](http://www.KutakRock.com).



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