

April 19, 2023

## 2023 MRB/MCC Safe Harbor Income Limits Available Mid-May?

HUD has not yet released income limits for 2023; it usually releases the limits on March 1 but due to COVID census collection delays HUD announced at the beginning of the year that 2023 income limits were expected to be released on or about May 15.

In 2021 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. 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 or around the release of the income numbers), an issuer computing high housing cost calculations for 2023 using 2023 income limits must use the 2023 national purchase price and the 2023 average area purchase price. An issuer cannot use 2022 income limits and 2023 purchase price limits to calculate the 2023 high housing cost limits. However, by virtue of the ability to use the 2022 income limits, an issuer can still use the 2022 high housing cost limits so long as those calculations use the 2022 income and purchase price limits.

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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 listed on the left in Kutak Rock's [Housing Finance Agency Practice Group](#). You may also visit us at [www.KutakRock.com](http://www.KutakRock.com).

