

HOUSING

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KUTAKROCK

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Income Determination Exception for Veteran Disability Benefits

On October 21, 2024, the Internal Revenue Service released [Rev. Proc. 2024-38](#). It provides that all Veteran Administration service-connected disability benefits are excluded from income determinations, consistent with the Section 8 HUD-VASH income eligibility waiver for In-scope Tenants. This applies to the income tests for both projects financed by federally tax-exempt multifamily bonds under Section 142(d) of the Internal Revenue Code, as well as Low Income Housing Tax Credit projects under Section 42 of the Code.

This change is based on the HUD-VASH Notice (Section 8 Housing Choice Vouchers Revised Implementation of the HUD Veterans Affairs Supportive Housing Program) published by HUD on August 13, 2024, which modifies the determination of “income” under the Section 8 Rental Housing Program, and the requirement that the income tests of Code Section 142(d) and Section 42 are to be determined in a manner consistent with the Section 8 Program.

Section 143(f)(2) of the Code likewise provides that, for the purposes of tax-exempt single family mortgage revenue bonds (MRBs), family income is to be determined taking into account the regulations under the Section 8 Program. Accordingly, the exclusions from income of VA service-connected disability benefits should also apply to the determination of income for MRB programs under Section 143 of the Internal Revenue Code.

If you have questions about any of the foregoing, please contact any of the attorneys listed on the left in Kutak Rock’s [Housing Finance Agency Practice Group](#). We would be happy to discuss this with you. You may also visit us at [kutakrock.com](#).

