

THE BOND BUYER

NABL letter requests clarification on veterans' preferences in multifamily housing

By

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WASHINGTON — The National Association of Bond Lawyers sent for a second time on Monday a letter to top officials of the Internal Revenue Service and Treasury requesting regulatory clarification on the permissibility of using veterans' preferences in projects financed with multifamily private activity bonds.

David Walton, one of the attorneys on the NABL Tax Committee, said that until a clarification is issued, "bond lawyers are requiring that the rental units be open to all who qualify" without any preferences for special groups such as veterans.

California, for instance, has 70 housing projects in which at least 25% of the units are restricted to veterans with most of the under construction or awaiting construction.

"There are projects waiting in the wings that aren't proceeding because of this problem," Walton said. "Then there are projects that are proceeding but they are not able to take advantage of grants and low-interest loan programs that require a preference for one of these specified groups."

An initial letter signed by NABL President Dee Wisor requesting a clarification was sent Dec. 20 just prior to the partial federal government shutdown that included most employees at IRS and the Treasury.

The IRS and Treasury only performed essential services during the shutdown, which ended late Friday after President Trump signed a stopgap budget measure reopening all government operations for 21 days.

NABL's letter, written by a working group comprised of members of NABL's Tax Law Committee, requests "clarification of the public use requirement for low- and moderate-income multifamily housing facilities financed with proceeds of tax-exempt bonds," also known as multifamily bonds.

“One requirement applicable to multifamily bonds is that facilities financed with proceeds of those bonds be available to members of the general public,” the NABL letter said.

In order for low-income multifamily housing facilities to qualify for the 4% federal low-income housing tax credit, a portion of the project must be financed with tax-exempt bonds and, generally, the only type of tax-exempt bonds that can be used for these purposes are multifamily bonds, the letter explains.

Walton, who worked on the letter, said NABL is hoping to capture the attention of a high-level Trump administration official.

“I think once they become aware of this issue, they’ll say what’s wrong with helping out homeless vets, public school teachers and pregnant teens,” Walton said. “They would just give a nudge to the folks who write these publications and tell them to go ahead on work on it and move it through the system.”

Walton said that would be the quickest way to resolve the problem unless Congress is planning on working on a tax bill.

But the last Congress failed to enact a tax corrections bill in December that would have provided the clarification. And action on another tax bill in the new Congress is unlikely anytime soon.