



DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 3

RIN 2900-AO73

Net Worth, Asset Transfers, and Income Exclusions for Needs-Based Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; correction.

SUMMARY: On September 18, 2018, the Department of Veterans Affairs (VA) published a final rule amending its regulations governing veterans' eligibility for VA pensions and other needs-based benefit programs. The final rule contained some errors in its preamble and in one amendment to the CFR. This document corrects those errors.

DATES: These corrections are effective on October 18, 2018.

FOR FURTHER INFORMATION CONTACT: Marie Gregory, Assistant Director, Pension and Fiduciary Service, Veterans Benefits Administration, Department of Veterans Affairs, 21P1, 810 Vermont Ave., NW, Washington, DC 20420, (202) 632-8863. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In FR Doc. No. 2018-19895 appearing on page 47246 in the Federal Register of Tuesday, September 18, 2018, the following corrections are made:

Corrections

1. On page 47260, third column, under the heading “1. Changes to Exclusions,” add the following paragraph:

“At the outset, as a technical matter, the paragraph proposed as § 3.279(a) is recharacterized in this final rule as an introductory paragraph. Thus, proposed paragraphs (b) through (e) are recharacterized as final paragraphs (a) through (d), respectively.”

2. On page 47261, first column, in the first full paragraph, the third and fourth sentences are corrected to read as follows:

“We have made this addition to final §§ 3.261, 3.262, and 3.272, and final § 3.279 lists this exclusion at paragraph (d)(1). Given this addition and the recharacterization of proposed paragraphs (b) through (e) discussed above, we have renumbered proposed § 3.279(e)(1) through (8) as final § 3.279(d)(2) through (9), respectively.”

3. On page 47261, second column, in the first paragraph, the third sentence is corrected to read as follows:

“Final § 3.279(b)(1), (2), and (3) use the term “assets” in the first column rather than the term “net worth” as proposed.”

4. On page 47261, third column, in the second paragraph, the fourth sentence is corrected to read as follows:

“We make no substantive change based on this comment because the \$2,000 cap is statutory.”

5. On page 47261, third column, in the fourth paragraph, the first and second sentences are corrected to read as follows:

“One commenter opined that the exclusion at proposed § 3.279(b)(1) was erroneous because it “is inconsistent with 25 U.S.C. 1408” and because “relocation payments under 25 U.S.C. 1408 are treated as assets.” We make no substantive change because the statute cited, section 1408, pertains to interests of American Indians in trusts or restricted lands and is listed in final § 3.279(b)(2), where we note such payments are excluded from income (up to \$2,000 per year) and assets.”

6. On page 47261, third column, in the fifth paragraph, the first sentence is corrected to read as follows:

“However, the commenter goes on to quote from 42 U.S.C. 4636, which is the basis of the relocation payment exclusion listed at final § 3.279(a)(1).”

7. On page 47262, first column, in the first full paragraph, second sentence is corrected to read as follows:

“This payment type was listed as an income exclusion at proposed § 3.279(d)(1) and is now at final § 3.279(c)(1).”

8. On page 47262, first column, in the first full paragraph, the fourth sentence is corrected to read as follows:

“Therefore, the only substantive change we make here is to update the statutory citation.”

9. On page 47262, first column, the second paragraph is corrected to read as follows:

“Similarly, the same commenter stated that payments to AmeriCorps participants, listed as an exclusion from income at proposed § 3.279(d)(2), should not be considered an asset for the annualization period in which the payment is received. Since the statutory authority for this exclusion, 42 U.S.C. 12637(d), does not authorize the exclusion of these payments from assets, we make no substantive changes based on this comment.”

10. On page 47263, first column, in the first paragraph under the heading “3. Distribution and Derivation Tables for Exclusions,” the fifth sentence is corrected to read as follows:

“The derivation table here corrects one error from the table providing this information in the proposed rule, and updates the paragraphs in accord with the recharacterization of proposed paragraphs (b) through (e) discussed above.”

11. On page 47263, second column, table 2 is corrected to read as follows:

Table 2. Section 3.279 Derivation from Previous § 3.272

New § 3.279	Derived from previous § 3.272 (or “New”)
3.279(a)(1)	New
3.279(a)(2)	3.272(v)

New § 3.279	Derived from previous § 3.272 (or "New")
3.279(a)(3)	3.272(p)
3.279(a)(4)	New
3.279(a)(5)	3.272(o)
3.279(a)(6)	3.272(u)
3.279(a)(7)	New
3.279(b)(1)	New
3.279(b)(2)	3.272(r)
3.279(b)(3) through (b)(5)	New
3.279(b)(6)	3.272(t)
3.279(b)(7) through (c)(2)	New
3.279(c)(3)	3.272(k)
3.279(d)(1) through (d)(9)	New

12. On page 47263, second column, table 3 is corrected to read as follows:

Table 3. Previous § 3.272 Distribution

Previous § 3.272	Distributed to or no change in location
3.272(a) through (j)	No change
3.272(k)	3.279(c)(3)
3.272(l) through (n)	No change

Previous § 3.272	Distributed to or no change in location
3.272(o)	3.279(a)(5)
3.272(p)	3.279(a)(3)
3.272(q)	3.272(o)
3.272(r)	3.279(b)(2)
3.272(s)	3.272(p)
3.272(t)	3.279(b)(6)
3.272(u)	3.279(a)(6)
3.272(v)	3.279(a)(2)
3.272(w)	Removed
3.272(x)	3.272(q)

13. On page 47267, first column, in the third paragraph, the second sentence is corrected to read as follows:

“We are spelling out the acronym “aka” used in proposed § 3.279(a) (now the introductory paragraph to final § 3.279), and making a technical correction to proposed § 3.279(e)(9) (now final § 3.279(d)(9)) to correctly refer to subchapter I instead of subchapter 1 as the authority for excluding as income annuities received under the Retired Serviceman’s Family Protection Plan.”

14. On page 47269, first column, in added paragraph (u) in the amendments to § 3.262, the second sentence is corrected to read as follows:

§ 3.262 [Corrected]

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(u) * * * See § 3.279(d)(1).

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Approved: October 12, 2018

Jeffrey M. Martin
Assistant Director
Office of Regulation Policy & Management
Office of the Secretary
Department of Veterans Affairs
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