

2.6 Utility Allowances

(a) The maximum gross rent includes the amount of tenant paid utilities inclusive of costs for heat, lights, air conditioning, water, sewer, oil and gas, where applicable. Utilities do not include telephone or cable television. Whenever the tenant pays utility costs directly (not by or through the owner of the building), the gross rent for that unit includes the applicable utility allowance. The utility allowance must be subtracted from the maximum gross rent to calculate the maximum tenant portion of rent.

In addition, any *mandatory* supportive service or amenity charge must be counted as part of the gross rent for these units. Such costs may include parking fees, a telephone if required to open the door or project gate as part of a security system, housekeeping, trash removal, meal service, or other required costs. Charges for *optional* services other than housing do not have to be included in gross rent, but such services must truly be optional. *NOTE: Fees may not be charged for any item that is part of the eligible basis (See Section 2-1).*

Example 2-6: If the maximum gross rent on a unit is \$525 and the tenant pays utilities with a utility allowance of \$75, the maximum tenant portion of rent allowable is \$450 (\$525 - \$75).

Example 2-7: If the same tenant pays an additional mandatory parking fee of \$25 per month, the maximum tenant portion of rent allowable is \$425 (\$525 - \$75 - \$25).

(b) 26 CFR §1.42-10, Utility allowances provides that utility allowances should be calculated as follows:

- (1) Rural Housing Services (RHS) – If a building receives assistance from RHS the applicable utility allowance in the building is the RHS approved utility allowance (UA).
- (2) Additionally, if any tenant in the building receives RHS rental assistance the applicable UA for ALL units in the building (including those occupied by tenants receiving HUD assistance) is the applicable RHS allowance.
- (3) HUD regulated buildings – If neither a building nor any tenant receives RHS assistance and the rents and utility allowances are reviewed by HUD on an annual basis, the applicable UA for all units in the building is the HUD utility allowance.
- (4) Other buildings – If a building is not subject to subsections (1), (2), or (3) above, the applicable UA for rent-restricted units in the building is determined under the following methods:
 - (i) For tenants receiving HUD rental assistance, use the applicable PHA UA.
 - (ii) For other tenants, any of the following methods may be used to calculate UA.

(A) The PHA utility allowance.

(B) Utility company estimate. The estimate is obtained when an interested party receives, in writing, information from a local utility company providing the estimated cost of that utility.

(C) Agency estimate. NOTE: This method shall not be available until such time as the HHFDC agrees to provide such estimates to building owners.

(D) HUD Utility Schedule Model. The HUD Model may be found at www.huduser.org/datasets/lihtc.html .

(E) Energy consumption model. A building owner may calculate utility allowances using an energy and water and sewage consumption and analysis model prepared by a properly licensed engineer that meets the requirements set forth in Treasury Regulation §1.42-10(b)(4)(II)(E), as follows:

- 1) The energy consumption model must, at a minimum, take into account specific factors including, but not limited to:
 - a) Unit Size;
 - b) Building Orientation;
 - c) Design and Materials;
 - d) Mechanical Systems;
 - e) Appliances;
 - f) Characteristics of the Building Location, and
 - g) Available Historical Data
- 2) The utility consumption estimates must be calculated by a properly licensed engineer or other qualified professional. The qualified professional and the building owner must not be related within the meaning of section 267(b) or 707(b).
- 3) In addition, utility rates used for the energy consumption model must be no older than the rates in place 60 days prior to the beginning of the 90-day period under paragraph (c)(1) of this section.

For purposes of this manual, a "properly licensed engineer" means a Professional Engineer ("P.E.") licensed or certified to practice engineering by a State licensing body. HHFDC will only accept energy and water and sewage consumption and analysis models prepared by a P.E.

(c) UAs must be updated at least annually since they are included in the maximum allowable rent calculations. Copies of utility allowance documentation must be submitted with HHFDC's

required annual year-end reports. Realize that any changes in utility allowances have a direct impact on the net chargeable rent to the tenant. *Any new allowance must be implemented within 90 days of the change.*

(d) The building owner must retain any utility consumption estimates and supporting data as part of the taxpayer's records for purposes of Treasury Regulation §1.6001-1(a).