



Understanding Gross Rent Limits

by Randy McCall, U.S. Housing Consultants

e	Changes in Eligible Basis or the Applicable Percentage (see instructions)	<input type="checkbox"/>	<input type="checkbox"/>
f	Project failed to meet minimum set-aside requirement (20/50, 40/60, average income test) (see instructions)	<input type="checkbox"/>	<input type="checkbox"/>
g	Gross rent(s) exceeds limits	<input type="checkbox"/>	<input type="checkbox"/>
h	Project not available to the general public (see instructions) (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>
i	Violation(s) of the Available Unit Rule under section 42(g)(2)(D)(ii)	<input type="checkbox"/>	<input type="checkbox"/>
j	Violation(s) of the Vacant Unit Rule under Reg. 1.42-5(c)(1)(ix)	<input type="checkbox"/>	<input type="checkbox"/>

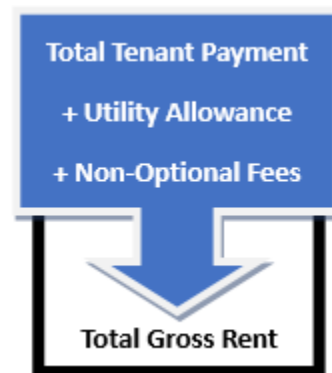
In the Low-Income Housing Tax Credit (LIHTC) program, receiving a letter of noncompliance is something no one looks forward to. Though there are varied reasons that one may receive a letter of noncompliance, noncompliance due to a maximum rent limit violation is preventable. According to the IRS Guide for Completing the 8823, *“Low-income housing *units* are considered out of compliance when *gross rent exceeds the maximum gross rent limit.”* Understanding how to correctly calculate the gross rent of a household is vital to avoiding a rent limit violation. This article will detail how to calculate the gross rent and tips for maintaining rent limit compliance.

Understanding that all LIHTC units have maximum rent limits is the first step in understanding the gross rent charged to a household. When a household applies to live in an LIHTC unit, a unit type and size is assigned to the household. The unit size (number of bedrooms) determines the maximum rent limit for that unit. For example, in a building, a 1-bedroom unit will have a specific maximum rent limit that is different than the rent limit assigned to a 2-bedroom unit. The gross rent applied to a household must be at or below the maximum rent limit that is calculated for the unit. To stay in compliance, the gross rent charged to the household per month must never exceed the maximum rent limit.

The total gross rent for a household is the total of the following:

- The total tenant’s rent payment;
- the utility allowance estimate of the unit size; and
- non-optional fees (if applicable).

The amount included in the total tenant payment only includes what the tenant pays. The total tenant payment should not include rental assistance. The second amount that should be included in the gross rent is the utility allowance. Utility allowance fees are typically an estimate of the utilities that a resident may pay based on the unit type. If the residents do not pay for utilities at a project, there would not be a utility allowance. The third fee included in the gross





rent is non-optional fees. Non-optional fees are specific fees that a resident must pay to live on a property, as a condition of occupancy. It is important to note that non-optional fees may differ from state to state. For example, some states may include month-to-month fees as non-optional fees and other states may not. It is best to check with your state Housing Finance Agency to determine their policy for non-optional fees.

After determining the total gross rent for a household, compare that amount to the rent limit. For the unit to comply, the total gross rent must not exceed the rent limit. In the example below, the total gross rent of \$1,080 (\$875 Tenant Paid Rent + \$155 Utility Allowance + \$50 Non-optional charges) is less than the gross rent limit of \$1,085.

In Compliance	Tenant Paid Rent	\$ 875.00	Rent Assistance:	\$ 0.00
	Utility Allowance	\$ 155.00	Other non-optional charges:	\$ 50.00
GROSS RENT FOR UNIT: (Tenant paid rent plus Utility Allowance & other non-optional charges)		\$ 1,080.00	Unit Meets Rent Restriction at:	
Maximum Rent Limit for this unit:		\$ 1085.00	<input type="checkbox"/> 20% <input type="checkbox"/> 30% <input type="checkbox"/> 40% <input type="checkbox"/> 50% <input checked="" type="checkbox"/> 60% <input type="checkbox"/> 70% <input type="checkbox"/> 80%	

If the total gross rent of a household exceeds the rent limit, the unit is out of compliance. In the example below, the total gross rent of the household is \$1,086 (\$875 Tenant Paid Rent + \$161 Utility Allowance + \$50 Non-optional charges) and is more than the rent limit of \$1,085.

Not In Compliance	Tenant Paid Rent	\$ 875.00	Rent Assistance:	\$ 0.00
	Utility Allowance	\$ 161.00	Other non-optional charges:	\$ 50.00
GROSS RENT FOR UNIT: (Tenant paid rent plus Utility Allowance & other non-optional charges)		\$ 1,086.00	Unit Meets Rent Restriction at:	
Maximum Rent Limit for this unit:		\$ 1085.00	<input type="checkbox"/> 20% <input type="checkbox"/> 30% <input type="checkbox"/> 40% <input type="checkbox"/> 50% <input checked="" type="checkbox"/> 60% <input type="checkbox"/> 70% <input type="checkbox"/> 80%	

It is important to double check the gross rent for LIHTC households ensuring to not exceed the maximum rent limit especially when adding updated rents and/or utility allowances.

A special rule applies to LIHTC households where the tenant receives Section 8 assistance (project-based or voucher). This special rule states that the tenant rent portion of the gross rent can exceed the rent limit if the tenant receives Section 8 assistance.



Example – Tenant Portions of Rent Exceeds Rent Limit – 8823 Guide 11-5

“A Section 8 household with an annual income of \$18,000 applies for an LIHC unit for which the rent is restricted to \$500 and for which the market rate rent is \$750. Assistance will pay a maximum of \$500, and the applicant’s portion is \$600 (40 percent of income). Since the applicant is required to pay \$600, Section 8 will pay \$150. There is no noncompliance.

Note: This example reflects HUD’s requirement under the Section 8 housing choice program. The family share may not exceed 40 percent of the family’s share monthly adjusted income when the family initially moves into the unit or signs the first assisted lease for a unit. Additional information available at www.hudclips.org/sub_nonhud/jtml/pdf/forms/7420q06.pdf.”

Calculating the gross income and comparing it to the maximum rent limit is important to maintain compliance. It is also important to understand what happens when a LIHTC unit gross rent exceeds the rent limit. According to the 8823 Guide, page 11-10:

Once a unit is determined to be out of compliance with the rent limits, the unit ceases to be a low-income unit for the remainder of the owner’s tax year. A unit is back in compliance on the first day of the owner’s next tax year if the rent charged on a monthly basis does not exceed the limit. An owner cannot avoid the disallowance of the LIHC by rebating excess rent or fees to the affected tenants.

Making sure the gross rent is in compliance with the rent limit is one of the many requirements that must be followed in the LIHTC program. It is also one of the few requirements where being non-compliant results in the immediate exclusion of the (over rent limit) unit from the tax credit calculation. Understanding how to calculate the gross rent and making sure the gross rent does not exceed the rent limit, ensures that qualified households are living in affordable units.

Mr. Randy McCall brings over twenty years of affordable housing experience. His passion and in-depth knowledge of affordable housing programs has enabled him to successfully provide training to management companies, city/state/federal agencies, and non-profit entities. Mr. McCall’s career began as an on-site leasing agent and then progressed to other on-site positions including Assistant Manager, Assistant Maintenance Supervisor, Bond Compliance Manager, Social Activities Manager, and Senior Community Manager. His experience also includes work as a Compliance Specialist, Physical Inspector, and Regional Compliance Auditor. His experience led him to a State Housing Finance Agency where he worked as a Training Specialist and was promoted to Supervisor of Rental Compliance in the Asset Management Department. Throughout his career he has also utilized his experience and skills to create training materials for inexperienced and seasoned learners. He has also been featured on panels at industry conferences.

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