



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Memorandum

To: Owners and Managers of TDHCA Sponsored Developments

From: Patricia Murphy
Chief of Compliance and Asset Oversight

Date: May 6, 2009

Re: IRS Notice 2009-44

The Internal Revenue Service (IRS) released Notice 2009-44 on May 5, 2009, amending Treasury Regulation §1.42-10. The Notice has been posted to the Utility Allowance section of the TDHCA website.

The Notice clarifies that the utility costs paid by a tenant based on actual consumption are included in a utility allowance. Utilities paid to or through the owner of the building based on an allocation method or RUBS are considered a mandatory fee and not included in the allowance.

Owners must update utility allowances once per calendar year. For those utilities paid by a tenant based on actual consumption, Owners should implement the method in place during calendar year 2008. As the methods prescribed in the Texas Administrative Code, Title 10, Chapter 60, §60.119(d)(2), (3), (4) and (5), required prior approval from the Department and a ninety (90) day notification period to the residents of the building, to maintain compliance, the request for annual review must be submitted prior to October 1, 2009.

The Compliance Monitoring Rules will be amended to adopt this Notice at a later date; however, the Department will immediately in accordance with the Notice.