



State Of New York
Division of Housing and Community Renewal
Office of Rent Administration
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Instructions For Owner's Report, Certification and Notice of Fuel Cost Adjustment Eligibility - 2016

General Instructions and Information

Rent adjustments for controlled apartments, because of changes in fuel costs after April 9, 1979, are processed by the Division of Housing and Community Renewal (DHCR) under Local Law No. 20 of 1980. These instructions and the related forms detail procedures for determining and collecting Fuel Cost Adjustments for 2016. The 2016 Fuel Cost Adjustment is added to or subtracted from 1980-2015 Fuel Cost Adjustments, if any. No rent increase for fuel costs for 2016 may be collected from a rent controlled tenant until the tenant and DHCR have been served with the completed Owner's Report, Certification and Notice of Fuel Cost Adjustment Eligibility (Form RA-33.10).

In order to legally collect Fuel Cost Adjustment increases as of January 1, 2016, owners of buildings with rent controlled apartments must serve each affected rent controlled tenant with a completed Form RA-33.10 and must file Form RA-33.10 with DHCR **ONLINE** at the above listed website on or before April 1, 2016, which is 60 days after the DHCR publishes its findings for the 2015 fuel price changes and maximum consumption standards.

The Division of Housing and Community Renewal (DHCR) has found that the price of #2 oil; #4 oil; #6 oil; Gas-Con Edison; Interruptible Gas-National Grid of New York; Interruptible Gas-Con Edison; Steam; and Coal decreased during the calendar year 2015. Owners using any of these fuels who obtained a rent increase for fuel cost adjustment since December 31, 1979 are required to serve any affected tenants and file a report with DHCR for a rent reduction by April 1, 2016 for fuel costs and effectuate such reductions. If an owner fails to do so, all rent adjustments for fuel costs previously obtained will be forfeited for a period of twelve months and the rent reduction will be retroactive to January 1, 2016. For those categories of fuel that increased (Gas-National Grid of New York; Gas-National Grid; and Electricity), the owner must file by April 1, 2016. If he/she fails to do so, the fuel cost adjustment is collectible prospectively only.

Owners of buildings in the Maximum Base Rent (MBR) Program who did not qualify for 2016-17 MBR increases are nevertheless eligible to file for Fuel Cost Adjustment. See Specific Instructions (Part V, Line E) for details of computing current MBR equivalent levels. However, owners of building(s) which have never had an MBR established will be required to obtain current MBR equivalent levels for the controlled units in the building(s) before filing the RA-33.10. Owners must request, by mail or in person, that DHCR compute the 2016-17 MBR equivalent level on a special form (Schedule F) available in any Borough Rent Office. Owners who completed Schedule F for any of the 1980 through 2015 Fuel Cost Adjustments should use the 1980-81, 1982-83, 1984-85, 1986-87, 1988-89, 1990-91, 1992-93, 1994-95, 1996-97, 1998-99, 2000-01, 2002-03, 2004-05, 2006-07, 2008-09, 2010-11, 2012-13, 2014-15 or 2016-17 MBR calculated equivalent and modify as indicated in Instructions for Part V, Line E, and need not complete another Schedule F.

No Fuel Cost Adjustment is collected for an apartment where the Maximum Collectible Rent (MCR) plus the Fuel Cost Adjustments exceeds the current Maximum Base Rent (or its equivalent) plus the total amount calculated for fuel, unless the owner can certify that, adding the Fuel Cost Adjustment increase for that apartment will not cause the building(s) to be earning more than the statutory return: 8 1/2% of its equalized assessed value.

The Certification on Part IV and Certification "A" on Part V of the RA-33.10 Report are not required to be executed if the apartment's Maximum Collectible Rent is less than its Maximum Base Rent.

Owners who received DHCR Orders for any building reducing Maximum Collectible Rents, based on failure to provide the services of heat and/or hot water, cannot collect a Fuel Cost Adjustment increase from any rent controlled tenants in such building(s) until twelve months after receiving an Order from DHCR restoring the rents. Owners must maintain and continue to maintain essential services.

Rent bills or receipts issued to tenants paying the Fuel Cost Adjustment increases must separately set forth the amount of such adjustment. For senior citizens or disabled tenants with currently valid Rent Increase Exemption Orders, the bill or receipt must also separately state the rent payable after the exemption.

Senior citizens or disabled tenants in rent controlled apartments with currently valid Rent Increase Exemption Orders are not required to pay any portion of the Fuel Cost Adjustment increase which brings their Maximum Collectible Rent above one-third of their monthly disposable income. Senior citizens or disabled tenants who apply for a Rent Increase Exemption Order within 90 days after being served with a copy of the RA-33.10 Report will have their exemption, if granted, retroactive to the effective date of the Fuel Cost Adjustment increase.

Local Law 20 also requires owners to report any funds received from any government grant program that compensates the owner for fuel price increases.

Specific Instructions

- Item 1. **Name and Mailing Address of Owner or Agent** - Enter name and address of owner or the owner's representative who signs the completed RA-33.10 forms and attachments, if any. Indicate representative's title; i.e., President, Managing Agent, etc.
- Item 2. **Address of Building** - If the subject property contains more than one building address, enter each address. Use the same address(es) that appear on the latest MBR Order.

There are four separate places on the report (Parts IV, V, VI) where the owner's signature may be required. Failure to sign as required will result in the reports being returned. All owners must sign Part V (**Certification B**) and Part VI (**Affirmation**).

Part I - Building Data

- Item 3. **Total Number of Apartments** - Enter the total number of apartments: controlled, temporarily exempt, rent stabilized, decontrolled, unregulated, owner or employee occupied, or vacant in the subject building(s) listed in Item 2. Also include apartments occupied for professional use.
- Item 4. **Total Number of Rooms** - Enter the total number of rooms for all apartments shown in Item 3. The method of determining room count must be identical for all types of apartments and must include all rental space, except for bathrooms, foyers, half-rooms and kitchens 59 square feet or less in floor area, or kitchenettes. As a guide, add any windowless rooms (except bathrooms, foyers, undersized kitchens, alcoves, pantries, closets and kitchenettes) to the final MBR room count for the building as contained in the latest MBR Order.
- Item 5. **Total Number of Stores and Other Commercial Units** - Enter number of stores and other commercial units in the property. Apartments occupied for professional use should be included in Item 3 above.
- Item 6. **Number of Rooms Equivalent to Area Occupied by Stores and Other Commercial Units** - Assign an equivalent number of rooms to the space occupied by stores and other commercial units indicated in Item 5 above. For example: a store on street level of the property which is the same size as an apartment directly above with four rooms, would be considered equivalent to four rooms. Where the location of the stores or other commercial units does not readily permit such comparison, the area of these units should be established as comparable to the number of rooms occupying a similar amount of space in the building.
- Item 7. **Total Number of "Rooms"** - Add Items 4 and 6. This total is the number of "Rooms" to be used to determine the annual fuel consumption per room for the subject property and is the basis for computing the monthly rent adjustment for each controlled apartment.

Part II - Fuel Data

- Item 8. **Type(s) and Quantity (ies) of Fuel Delivered During 2015** - Check box(es) indicating type(s) of fuel used at the subject property and enter the total quantity(ies) of fuel delivered in calendar year 1/1/15 to 12/31/15. For Example: If coal was used, indicate the number of tons delivered during that period.
- Item 8(a). If gas was used, check the appropriate box, to indicate whether the heating system is Temperature Controlled (Interruptible Gas). This type of system uses gas for heating except when the outdoor temperature falls below a certain point causing the system to automatically change to oil for heating.
- Item 9. **Gas, Electric or Steam** - Where gas, electricity or steam was used in the previous filing, the twelve-month period shown should be consistent with the twelve-month period shown in the previous filing.
- Item 10. **Capacity of Fuel Tank(s) or Coal Bin(s)** - Enter the total capacity of all fuel tank(s) or coal bin(s) for subject property.
- Item 11. **Name and Address of Fuel Vendor(s)** - Enter name(s) and address(es) of vendor(s) from whom purchases of fuel were made during the calendar year 2015. If more space is needed, list on a separate attachment.
- Item 12. Check "yes" box if owner participated in any government program which compensates for 2015 fuel price increases, and supply requested information.

Part III - Computation of Fuel Cost Adjustment

- Items 13 through 20. **If only one type of fuel** was delivered to the subject property during calendar year 2015, complete all the items to compute the monthly rent adjustment per room for the subject property as allowed under Local Law 20. The items are self-explanatory. For Items 13, 15 and 17, copy the amounts applicable to the subject property exactly as set forth in the appropriate columns in Item 8.

If gas is used, make sure you use the price change applicable to the vendor from whom you made purchases.
If more than one type of fuel was delivered in 2015, you must complete RA-33.10 Schedule A-Conversion Table or Schedule B-Conversion Table. Enter the amount from Item 33 of Schedule A-Conversion Table in Item 18, and complete items 19 and 20, or if Schedule B was used, enter amount shown in Item 14 from that schedule in Part III, Item 20.

Part IV- Schedule of Monthly Rent Adjustment For Rent Controlled Apartments

Complete this Schedule for subject property. If property includes more than one building (see Instructions, Item 2), a separate Schedule must be completed for each building address. Enter the number of Qualifying Controlled Apartments to be listed in the Schedule on the first sheet. Make sure each sheet of the Schedule is numbered and the totals of the number of Rooms, shown in Column (5) and the Collectible Monthly Rent Increase or Decrease shown in Column (6), are entered. **Part IV should not be served on an individual tenant.**

Part V - Notice To Tenant of Fuel Cost Adjustment

Line A: Enter the number of rooms (as defined in the instructions, Item 4) for the apartment.
 Line B: Self-explanatory.
 Line C: Self-explanatory.

Line D: Enter the current Maximum Collectible Rent for the apartment. Take the amount shown on the most recent MBR Notice (RN-26S, RN-26s.1 or RN-26) and add to it the net total of all subsequent rent adjustments ordered including service, equipment, major capital improvements, labor, etc. If the apartment is occupied by a senior citizen or disabled tenant with a valid Rent Increase Exemption Order, enter the Maximum Collectible Rent without exemption.

Line E: If the subject property received a 2016-17 MBR Order of Eligibility, enter the current adjusted 2016-17 MBR or its equivalent for the apartment as shown on Line 3 of Form RN-26S or RN-26s.1, or Line 9 of Form RN-26.

If the subject property's most recent MBR Order of Eligibility is earlier than 2016-17, you must determine the equivalent 2016-17 Unadjusted MBR by selecting the appropriate MBR cycle from the table below and computing the equivalent.

Most Recent MBR Order for Property		Computation	
2014 - 15	— — — — —	Multiply the 2014 - 15 Unadjusted MBR by	1.096
2012 - 13	— — — — —	Multiply the 2012 - 13 Unadjusted MBR by	1.187
2010 - 11	— — — — —	Multiply the 2010 - 11 Unadjusted MBR by	1.280
2008 - 09	— — — — —	Multiply the 2008 - 09 Unadjusted MBR by	1.445
2006 - 07	— — — — —	Multiply the 2006 - 07 Unadjusted MBR by	1.532
2004 - 05	— — — — —	Multiply the 2004 - 05 Unadjusted MBR by	1.657
2002 - 03	— — — — —	Multiply the 2002 - 03 Unadjusted MBR by	1.943
2000 - 01	— — — — —	Multiply the 2000 - 01 Unadjusted MBR by	2.147
1998 - 99	— — — — —	Multiply the 1998 - 99 Unadjusted MBR by	2.239
1996 - 97	— — — — —	Multiply the 1996 - 97 Unadjusted MBR by	2.324
1994 - 95	— — — — —	Multiply the 1994 - 95 Unadjusted MBR by	2.394
1992 - 93	— — — — —	Multiply the 1992 - 93 Unadjusted MBR by	2.745
1990 - 91	— — — — —	Multiply the 1990 - 91 Unadjusted MBR by	3.042
1988 - 89	— — — — —	Multiply the 1988 - 89 Unadjusted MBR by	3.285
1986 - 87	— — — — —	Multiply the 1986 - 87 Unadjusted MBR by	3.824
1984 - 85	— — — — —	Multiply the 1984 - 85 Unadjusted MBR by	4.264
1982 - 83	— — — — —	Multiply the 1982 - 83 Unadjusted MBR by	4.584
1980 - 81	— — — — —	Multiply the 1980 - 81 Unadjusted MBR by	5.088
1978 - 79	— — — — —	Multiply the 1978 - 79 Unadjusted MBR by	5.597
1976 - 77	— — — — —	Multiply the 1976 - 77 Unadjusted MBR by	6.100
1974 - 75	— — — — —	Multiply the 1974 - 75 Unadjusted MBR by	7.443
1972 - 73	— — — — —	Multiply the 1972 - 73 Unadjusted MBR by	8.075

The Unadjusted MBR is found by subtracting the net total of all service, equipment and major capital improvement rent adjustments (increases and decreases) granted between August 1, 1970 and the date of the last MBR Notice, from the Adjusted MBR shown on that Notice.

If MBR increases have never been granted for the subject property, request a Schedule F (Form RAS-33, "Schedule F, Fuel Cost Adjustment Request for Calculation of Equivalent MBR") from any DHCR Borough Rent Office. Upon your submission, DHCR will calculate an Equivalent 2016-17 Unadjusted MBR and mail it to you. **If you have an Equivalent Unadjusted MBR calculation for any prior MBR cycle, do not request or file a new Schedule F;** instead, compute the 2016-17 Unadjusted MBR by using the figure on the table above for the appropriate MBR cycle indicated on the Schedule F.

When you have derived the 2016-17 Unadjusted MBR above, add to that figure the net total of all rent adjustments (service, equipment and major capital improvement) granted since August 1, 1970. This new figure is the 2016-17 Adjusted MBR. Enter it on Line E.

Part V - Notice To Tenant of Fuel Cost Adjustment

Lines F and G:

Add the Monthly Adjustment figure for each year (as reported) on the Fuel Forms previously filed for apartment (RA-33.10 Report).

If any of the amounts to be entered on Lines F or G were modified by agency audit or appeal, enter the modified amount.

Line H: Self Explanatory

Line I: This amount is the total Rent Adjustment for Fuel and must be shown on rent bills or receipts.

Note: If the Maximum Collectible Rent (Line D) plus Fuel Cost Adjustments (Line I) is equal to or greater than the Maximum Base Rent or its Equivalent (Line E) plus the total amount calculated for fuel (Lines F and H), the owner must complete and sign Certification A shown in Part V to be eligible to collect the rent increase for this apartment. If the owner cannot make such a certification, the owner may not collect the increase for the affected apartment. In such a case, the rent increase may only be collected for those apartments in the building(s) whose MCRs plus Fuel Cost Adjustments are below their MBRs plus the total amount calculated for fuel.

Part VI - Owner's Affirmation

This Affirmation must be signed by the Owner, Officer, or Agent who completed the items on the RA-33.10 Report and attachments, if any. Under the provisions of the Law, eligibility for the rent adjustment being claimed is conditioned upon compliance with the following requirements:

The data and information in the Report, Certification and Notice (including Fuel Consumption) are true and correct;

All required and essential services are and will continue to be maintained;

Any rent reduction Order issued for failure to provide heat and/or hot water to the building(s) has been superseded by a restoration Order at least twelve months prior to the filing of the Report; and

All data, when and if requested by the DHCR to support the Fuel Cost Adjustment, will be promptly provided.

Filing and Serving Copies of the Owner's Report, Certification and Notice Form

In order to collect fuel cost adjustments you must reproduce a sufficient number of copies to:

1. Serve a completed and signed Owner's Report, Certification B and Notice (Form RA-33.10, Part I, II, III, and V) and Schedule A or Schedule B Conversion Table if applicable, on each qualifying rent controlled tenant (Part IV and Part VI should not be served on tenant). As there may be a subsequent dispute as to whether such service was made, you are advised to obtain and keep evidence of such service, such as an affidavit of service by mail together with a postmarked receipt for Certified Mail or Certificate of Mailing, or a dated statement signed by the tenant acknowledging receipt.
2. When the Owner's Report has been successfully submitted to DHCR a confirmation number will be displayed. As there may be a subsequent dispute as to whether this filing was made, you are advised to obtain and keep evidence of this filing with DHCR, such as a copy of the receipt with the confirmation number. This filing will be assigned a DHCR docket number and an electronic copy of this filing will be retained by DHCR.

NO DOCUMENTATION IS SUBMITTED WHEN FILING THE REPORT. However, the data is subject to audit and where such review is done, submission of all necessary records and other substantiating evidence will be required. If the audit establishes that you are not entitled to the claimed Collectible Rent Increase, appropriate Orders of modification or revocation will be issued and you will be liable for reimbursement to tenants for any overpayments. In addition, if the data presented in the Report was false, you may be subject to the penalties provided by Law (See Warning on REPORT Form.)