

Lease audit perspective



Paul Neal



Minimizing real estate rent charges

Rent charges remain one of the largest operating expenses for most companies with lease obligations. Understanding the true nature of the underlying rent components, and taking the initiative to audit these annual charges, can result in significant bottom line savings over the lease term. This is especially true for organizations with multiple leased locations.

In Canada, a net lease typically consists of 'minimum rent' (also called basic rent) and 'additional rent'. The latter is generally defined as a tenant's proportionate share of realty taxes and the costs to operate and maintain the property plus all utilities consumed in the tenant's premises and any additional services provided by the landlord upon request, such as special cleaning or after-hour lighting, heating and air-conditioning.

Minimum rent and additional rent are influenced by many factors, including economic conditions in the marketplace, emerging social and environmental trends, the design and physical attributes of the property, the tenant's business use and configuration of the premises, plus a host of legal definitions, rights, obligations and restrictions set out in the lease itself. Collectively, these factors determine a tenant's total rent charges.

Because each lease is unique, every tenant should be diligent in reviewing its annual occupancy costs, since:

- adjustments to the minimum rent payable may be required if the actual area of the premises varies from the estimated rentable area specified in the Offer to Lease
- free rent periods, abatements and contractual escalations during the term will modify the amount of minimum rent that a tenant is obligated to pay
- recent changes in federal and provincial tax legislation can affect a tenant's annual tax charges
- operating costs are influenced by a property's location, its physical characteristics and building amenities, the gross rentable area, occupancy level, property management style and ownership structure
- certain categories of non-recoverable expenses in one building may be passed through to tenants in another building by virtue of different lease language, landlord administration policies and ownership structure
- an audited statement of building operating expenses and taxes does not necessarily assure a tenant that their year end charges have been properly prepared in compliance with their lease

Discrepancies can arise between a tenant's billed rent charges and its contractual lease obligations. A lease audit can potentially reduce the historic and future occupancy costs for an organization by ensuring that all billed rental charges are in strict compliance with the lease.

DTZ Barnicke's lease audit services team works closely with our clients by reviewing their current and historic rent charges to:

- benchmark occupancy costs to market
- identify and recover past overpayments of occupancy charges
- quantify future cost savings over the balance of the lease term
- ensure landlord billing practices are in compliance with the specific provisions in the lease
- confirm that the rentable area of the premises is properly measured in accordance with the lease
- verify that all negotiated financial incentives, inducements and allowances have been properly granted by the landlord
- recommend improvements to lease language

A lease audit involves the review by our qualified professionals of all lease documentation and year end billings for operating cost, realty tax and related charges. All identified claims are documented and, where appropriate, an audit of the landlord's books and records is conducted. Opportunities for future cost savings, including recommended improvements to lease language, are also documented.

For cost-conscious organizations striving to improve their bottom line, lease audits have become an important tool in reducing current and future real estate occupancy costs. DTZ Barnicke's lease audit services team has successfully recovered millions of dollars in rent overcharges and related occupancy costs for our clients across Canada. Additional millions of dollars in future cost savings have also been identified over the remaining term of their leases.