



Eclass 6 - Outgoings and Reports – Understanding what you need to do

What are outgoings?

Outgoings are expenses you incur for owning commercial real estate. It includes expenses such as strata levies, building insurance, land tax etc.

One of the major areas of difference between residential and commercial real estate is who pays the outgoings. In residential properties it is nearly always the landlord who pays for all the outgoings. This includes but not limited to items like strata, water, sewage, landlord insurance and land tax. Commercial properties are totally different in that the tenant often pays for all or most of the outgoings. This even includes land tax and building insurance in some instances. This means there is literally no out of pocket expenses for you other than interest on any loan you may have for the property.

If you have a commercial property where there is only one tenant then it is normal for the tenant to pay for the strata levies (if it is an office suite) or building insurance (if they occupy the whole building), water rates and usage, land tax (through negotiations) and council rates and any other outgoings they may incur.

If you have a multi tenanted building then each of your tenants may pay a proportion of the outgoings as per the amount they occupy the building. However, you will need to pay for the maintenance and outgoings on common areas. So, if you have 4 tenants in a free standing building, you will need to pay for the maintenance of the common areas which may include some of the followings:

- Front area of the building including any gardening or cleaning you need from time to time,
- Cleaning of any common area toilets and stairways and landings.
- Electricity used in common areas
- Gates or fences to the building
- Any common outdoor area maintenance – walkways, outdoor eating area or seats, parking areas that is not exclusive use to one tenant

- Water used in common areas (minimum and usually none)
- General common area maintenance such as if a buzzer/intercom to the building breaks down or blocked common area toilets

If the commercial property you own is not a freestanding building and it is an office suite or shopfront that is part of strata then there is literally no outgoings for you to pay. If the lease provides for it your tenant will pay for strata and strata will take care of all the insurance and maintenance in the building.

Who pays for what outgoings is one of the clauses in your lease and it is something that is negotiated on when you first sign up your tenant. Most commercial tenants are aware of what they need to pay as outgoings.

What if my tenants don't want to pay outgoings?

Some tenants will not be happy to pay for outgoings as they may perceive it as the landlord's responsibility. In one incident with that we know of a business owner would rather pay more rent than pay the strata levies on the property. Their perception was that they do not want to pay for things they felt they had no control over. In this particular instance the tenant felt that since they cannot influence the strata committee or attend strata meetings then they shouldn't pay for the strata fees. As a result their rent was higher as the landlord just built in the anticipated strata levies into their rent. This actually benefited the landlord as opposed to the tenant as it meant that with every year's rent review the raise in rent was higher than if the tenant treated strata as a separate expense.

You can see when comparing the list of things you need to pay for in owning a residential property to a commercial property there is a lot less you need to pay for as a commercial property landlord than as a residential landlord.

Property Maintenance

If you own a residential property then you will know that your managing agent and/or tenant will call you when they have any kind of small issues on the premise. This can be small faucet leaks to major plumbing issues to an appliance breaking down.

Having a commercial property means that your tenants will often fix the issue themselves where possible. Your tenants are not doing you a favour to fix these things but because the following reasons

1. It is in their best interest not to have a blocked toilet or any defects in the property where they will make their living and because they do not want their customers to see it as it reflects poorly on their business.
2. Your tenants are likely to be proactive business people who want things done and not wait for the agent to set up a time and then gets quotes to get things fixed if they can get it done quicker themselves.

3. There is a clause in their lease that the tenants need to maintain the premise in good working order.

As such you will find that unless there is a water proofing issue in the bathroom and/or roof leak issue or any other major structural issue you tenants will try to fix all the minor property maintenance issue themselves which save you the landlord at the end of the day – another benefit to owning commercial real estate.

-estimation of outgoings for retail leases – show example

Under Retail leases you have a bit more responsibility as a landlord but most of the time your solicitor will handle the finer details of the lease. The main responsibility is that you show your tenants the estimation of the outgoings and how you would recover them.

Property Reports – Compliance Reports

As an owner of a commercial property you have some reports that are mandatory based on new legislation that is uniform across Australia. You may find when you buy a commercial property that the previous owner of the property may already have these reports done. In the case of asbestos you will not need to get another report done unless there is a need for a management plan. Regarding fire safety you will need to get one done each year to be compliant but you may wish to use the same company as the previous owner so it is always wise to ask for these reports.

Below are quick explanations of each of the compliance reports you need:

Asbestos Report

The Work Health and Safety Act 2011 set new guidelines in respect to the management of asbestos in the workplace. In essence Commercial buildings constructed before 2004 in NSW should by law have already had an asbestos assessment, a site specific register and a management plan if required completed.

Most vendors will have an asbestos report in place for when they sell their property because it is now common to ask for it as part of your due diligence when purchasing a property. So, make sure you ask for it. If at the vendor does not have an asbestos report on the property you are going to purchase then be aware that you will need to get an asbestos report done when you become the owner of the property for compliance reasons. You may want to get an asbestos report done as part of your due diligence on the property before your contract goes unconditional just to protect yourself in case there is asbestos on the premise and you are up for remedial work which could cost a fair bit.

Under the Act breach of the Duty of Care provisions, can be classified as a criminal offence with penalties extending to a maximum of \$3,000,000 for a corporation and \$600,000 for an individual. The implications of an asbestos exposure claim would

also prove significant, particularly if you are not covered by your insurance policy, so this always needs to be checked.

There are commercial consulting firms who can provide the necessary reports and arrange for any remedial action.

Fire Safety Report/Certificate

Under the Environmental Planning and Assessment Regulation 2000, owners of buildings must provide the Fire and Rescue NSW Commissioner with a copy of Fire Safety Statements and its corresponding Fire Safety Schedule. Annual and Supplementary Fire Safety Statements are records of maintenance of the fire safety measures installed in the building. A copy may also need to be sent to the local council.

The current owner of the commercial property you are purchasing may have a current one you can look at but most of the times you will need to get one the following year to be compliant.

There are commercial fire safety firms who can provide the necessary reports and arrange for any remedial action. A fire safety report will need to be done on a yearly basis if you own a freehold building. If you own a strata lot then strata will do it yearly as part of their routine compliance update.

Optional Reports

Below are a couple of reports you may want to get and worth noting but not essential

Depreciation Reports

While we will spend go into detail about how depreciation can affect your property's ROI, we would just like to mention here the importance of getting a depreciation schedule for your commercial property. Depreciation is the loss in value of an asset or fixtures over time due to wear and tear and/or physical deterioration and age.

Depreciation can cover anything from building materials to air conditioning units. Getting a report like this means that you can reduce your income before tax by a certain amount based on what is set out in the schedule specifically for your commercial property.

There are specialist companies that do this type of report and a report depending on the detail can cost you anything from a few hundred dollars to thousands of dollars depending on the size of your property. It is not a schedule an accountant can do but usually done by a quantity surveyors. Sometime to produce a really detailed report the surveyor needs to go through council documents to see if there are any previous renovations to the premises. This is very detailed work and can be time consuming but what they can find can save you thousands in tax.

Strata Reports

This is more common in residential than in commercial to get a strata report. A strata report is a report that looks at the history of the strata complex to see if there have been any previous issues or any pending issues that are likely to cost new owners additional fees in the form of a special levy. You can get similar information if you ask for the minutes of the last AGM and also the last strata meeting. This information is free and should form part of your due diligence. The real estate agent should be able to provide them to you or you can call up the strata company and ask them directly.

OHS Standards

This is not a report but it may be a standard that is upheld within a certain building that your commercial property is in. It is a general plan of how the building operates and what to do in emergency circumstances. It usually exists in large commercial buildings with mixed tenancies and it is there to make sure that the common areas and the common facilities are looked after and maintained by everyone. As an owner the OHS standard does not impact on your commercial property; it is more of a standard for your tenants to adhere to in their day-to-day occupation of the premises.

There are more detailed documents and samples of fire safety and asbestos reports available in this module for you to view.