

## Lease Audits

# “Office Tenants Check for Lease Overcharges”

Excerpted from the Wall Street Journal

### ***Audits Spread as Landlords Get More Aggressive In Passing on Costs’... [By Sheila Moto](#)***

Uncle Sam isn’t the only one performing audits these days. More and more office tenants are taking a closer look at their landlords’ books. The goal: to make sure they are not being overcharged. What is typically a busy season for the companies that conduct lease audits on behalf of commercial tenants is shaping up to be even more brisk this year. Tenants that have the right to conduct such audits increasingly want to make sure they aren’t paying more for building operating expenses and real estate taxes than their lease agreement calls for.

And in some cases, tenants with a big chunk of space available for sublease are making the case that they shouldn’t have to pay for some operating expenses, such as janitorial services and utilities, on unoccupied space. The savings could be noteworthy for large tenants in New York, where additional security and insurance costs have pushed expenses up by about 50 cents a square foot on average.

### **More Scrutiny**

Typically, a landlord incorporates a building’s operating expenses and real estate taxes into the rent tenants pay in the first year of occupancy. In subsequent years increases in expenses over the base year are passed through to tenants unless they were able to negotiate caps or exclusions. Tenants pay their portion of expenses each year based on the landlord’s estimates. The following year, landlords calculate the actual expenses and send out a reconciliation statement to tenants, generally between March and June, outlaying how much was overpaid or underpaid. This year, these statements have started rolling in earlier than usual, say auditors.

Auditors contend that the cost of new or replacement equipment, such as energy-efficient systems or elevators, is incorrectly making its way onto tenants’ bills. Errors stemming from calculating insurance and security costs are increasingly common given that landlords who own several properties typically use umbrella policies and contracts to cover their portfolio.

### **A Matter of Responsibility**

Other miscalculations involve the amount of space for which the tenant is responsible for paying rent and expenses, the expenses included in a tenant’s rent for the first year, and increases tied to a consumer price index or other cost-of-living increases. Fees charged to manage the property also are a point of contention.