



## Legal Update



### Deadline for Annual Outgoings Budget approaches

If you are a Landlord of a **retail shop** and charge your tenant outgoings in addition to the rent, you have certain ongoing obligations under the provisions of the *Retail Shop Leases Act (Qld) 1994*. If you collect outgoings on a financial year basis, then you (or your managing agent on your behalf) need to provide an updated budget for the next financial year by 31 May 2019.

#### ***Outgoings Recovery – Landlord’s obligations***

Where Landlords collect outgoings from their retail tenants, Landlords are to provide their retail tenants with:

1. an annual estimate of the Landlord’s outgoings, in the approved form, at least one month before the start of the period to which the estimate relates. This means that if you are collecting outgoings on the basis of a financial year, you will need to have estimated your outgoings for the 2019/2020 financial year and provided that estimate to your Tenant by no later than 31 May 2019;
2. an audited annual statement of the outgoings in the approved form within 3 months after the end of the period to which the outgoings relate. The audit must be undertaken by a registered auditor. Therefore, if you are collecting outgoings on a financial year basis, it will be necessary for you to have your outgoings for the 2019/2020 year audited and the report provided to your Tenant by no later than 30 September 2019.

The approved forms can be located at [www.publications.qld.gov.au/en/dataset/retail-shop-leases-forms](http://www.publications.qld.gov.au/en/dataset/retail-shop-leases-forms)

Failure to give the estimate or the audited statement will give the tenant the right to withhold payment of outgoings until you do provide the estimate or audited statement (as the case may be).

If you have just become the owner of a retail shopping centre or a building containing one or more retail shops, then your first estimate and your first statement of outgoings may be made for a period of less than one year.

Remember – some non-retail leases will be caught by the Retail Shop Leases Act requirements. For example, if your tenant is not using the premises for a retail business use but their premises are in a retail shopping centre (a building which has 5 or more retail use tenants, with more than 25% of the building’s floor area on that level used for retail uses), their lease might still be deemed to be a retail shop lease, meaning you still need to give your tenant the annual estimate and the annual audited statement.

For further information contact Alison Fleming of our office on (07) 5443 1566 or by email: [alisonf@tml.com.au](mailto:alisonf@tml.com.au)

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### Thompson McNichol Lawyers

Suite 5, 32 Aerodrome Road | PO Box 552 | Maroochydore | QLD | 4558  
E [mail@tml.com.au](mailto:mail@tml.com.au) | P 07 5443 1566 | F 07 5443 7196 | W [tml.com.au](http://tml.com.au)

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