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Insights

Triple Net - A Series on Commercial Leasing by Krieg DeVault: Breaking Down the Three Main Types of Leases

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Commercial leases typically fall into one of three main types of leases—gross, net, or modified gross, with the net lease having various subtypes. The differences in these types of leases largely revolves around the rent structure of the lease and the allocation of costs and expenses for the leased premises which may include such items as: (i) the cost of utilities; (ii) the cost of maintenance within the leased premises including the electrical, plumbing and HVAC systems; (iii) the cost of common area maintenance (such as hallways, elevators, communal bathrooms, parking lots, garbage removal, and sidewalk and landscaping maintenance); (iv) real property taxes and assessments for the leased premises; and (v) cost of property insurance. Landlord takes on the most risk with a gross lease and the least risk with a triple net lease. Below is a quick summary of each type of lease and common subtypes:

Gross Lease: This is the most straightforward and least common type of lease in a commercial setting. In a gross lease, also commonly called a "full-service lease", tenant is only responsible for a flat rental rate, and landlord pays for the remaining costs associated with maintaining and operating the building and the leased premises. This has the most risk to landlord because, despite trying to estimate the cost for property taxes, insurance, and utilities into the final rent amount, landlord may undervalue the costs; however, as will be discussed in subsequent articles, certain provisions can be added to the lease to minimize the risk to landlord.

Single Net Lease: A single net lease, also often shorthanded to "N" is a lease wherein tenant pays for rent of the leased premises and property taxes. Landlord typically uses the property taxes from the previous year to estimate the cost of property taxes for the current lease year. This is an additional cost and separate from the base rent that tenant typically pays on a monthly basis. This is also fairly uncommon in the commercial setting, because the landlord shoulders the costs for operating the leased premises.

Double Net Lease: A double net lease, also often shorthanded to "NN" is a lease where tenant is responsible for rent, real property taxes, and insurance premiums for the leased premises. The insurance premium is for the leased premises and not for personal property or for renter's insurance. This is more common in multi-use facilities where there are several tenants occupying different spaces within the same building. Again, as with the single-net lease, landlord will estimate the real property taxes and insurance premiums using the previous year's actual cost.

Triple Net Lease: A triple net lease, or "NNN", is perhaps the most common commercial lease. A triple net lease requires tenant to pay the base rent plus property taxes, plus insurance premiums, and plus any other costs related to the operation and maintenance of the building, which can include janitorial maintenance, landscaping, and maintenance and repair (usually not replacement depending on the term of the lease) of electrical, plumbing and HVAC systems.

Modified Gross Lease: A modified gross lease is as it sounds: landlord will charge a base rent which may include taxes, insurance, and operating expenses, as it would do in a gross lease, but landlord will pass through any difference in the increase in costs calculated. These leases include "base year" language and can also include "gross-up" or "expense stops" (all of which will be discussed in depth in a subsequent article). Modified gross leases can also include single and double net leases depending on the rent structure and whether the landlord includes any pass-through language for the costs that tenant is not directly paying (for a single net, as described in this post, that would include operating expenses and insurance; for a double net, as described in this post, that would include just operating expenses).

Though the three main types of leases outlined above seem straightforward, they are often modular in formation and are heavily negotiated between landlords and tenants. The parties should determine, prior to drafting a lease, which model works best based on a variety of factors including: the type of space, the use of the space, the duration of the term, and the vacancy or occupancy rates of the entire building.

The members of the Krieg DeVault **Real Estate & Environmental Practice** have extensive experience representing landlords and tenants in drafting and negotiating commercial leases. If you have any questions about commercial leases or any other real estate issues, please contact **Christopher Engel** or a member of Krieg DeVault's **Real Estate & Environmental Practice**.

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