

# Chapter 9

## *The Share Lease Agreement*

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The share lease is a lease agreement that allows the landowner to have material participation in the farm operation on their owned land, but not be affiliated as a legal partner in the farm business entity. In a sense, it is a hybrid between a conventional farm lease agreement and a revenue-based financing agreement. It is not a loan, but a lease agreement that specifies what percentage of the costs will be shared by farmer and landowner, and what types of production costs will be covered by each party. The agreement details what percentage of revenues gained from farming will go to the landowner as a “share lease fee” and what percentage of revenues the farmer will keep.

The advantage of using the share lease agreement is that new business entities do not need to be formed in order for the landowner to act as “investor” and share in the farm business revenues. Attorneys are generally very familiar with a conventional lease agreement, and the share lease is a variation. The primary disadvantage for a farmer in using the share lease versus a promissory note or straight cash lease with a fixed payback term is that, in a good year, the farmer might pay a substantial amount of money as the share lease fee. On the other hand, in a bad year, the landowner assumes some risk, and the required share lease payment in bad years might be less than what would ordinarily be paid in a fixed cash lease or loan situation.

There are significant tax implications for pursuing a share lease, depending on whether or not the landowner meets the criteria for “material participation” in the farm enterprise, and recognizes the income as self-employment income. Consult with a qualified accountant before signing any share lease agreement to discuss tax consequences. Listed below are resources from Cooperative Extension Agencies across the country that cover considerations and options for landowners and farmers in crafting sound crop share lease arrangements:

**Resources for Crafting a Share Lease Agreement:**

“Developing Share Lease Agreements for Farmland.” Oklahoma Cooperative Extension Service. This workbook goes through detailed considerations in pursuing a share lease, and includes worksheets for determining costs and revenue sharing. Available online at: <http://pods.dasn.okstate.edu/docushare/dsweb/Get/Document-1778/AGEC-215web.pdf>. Accessed online 2/15/2012.

A Sharemilking agreement is specific to dairying, and is a share lease that is focused on sharing dairy infrastructure and building equity for the tenant farmer through partial ownership of the herd or other assets. The University of Missouri Pasture-based Dairy Program has comprehensive resources on share-milking agreements for livestock operations. They are available online at: <http://agebb.missouri.edu/dairy/grazing/sharemilking/>. Accessed online 2/15/2012.

“Crop Share Rental Arrangements for Your Farm.” North Central Farm Management Extension Committee. This publication covers advantages and disadvantages of crop share arrangements, guiding principles used for developing equitable arrangements, and different approaches used for developing a functional arrangement. Available online at: <http://www.aglease101.org/DocLib/docs/NCFMEC-02.pdf>. Accessed online 2/15/2012.



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