

William R. Harryman
Extension Educator, Retired
Farm Business Management and Marketing

Several non-agricultural factors affect leasing arrangements. Details on insurance, social security, and human considerations are covered in this fact sheet.

Insurance

Lease forms developed by the University of Illinois and other professional farm managers have included a clause regarding insurance protection of the landowner in the farm lease. The clause reads:

Insurance: For the term of the lease, Lessee shall maintain insurance with a carrier acceptable to the Lessor, insuring Lessee while performing on these premises hereunder for the following types and in stated amounts:

*Crop Insurance \$___per acre
Liability Insurance \$___per person
\$___per occurrence
Property Damage \$___per occurrence
Workers Compensation: Full Statutory Limits*

Lessee shall furnish a Certificate of Insurance and agrees that all applicable insurance policies name the Lessor as an additional insured and to receive notice of termination of coverage.

These clauses help protect the owner from any liability that might be incurred if the operator makes a mistake, or does something wrong. It is a simple matter for the operator to obtain a Certificate of Insurance from an insurance professional to document the insurance coverage. In some cases, the insurance requirement is expanded to name the landowner as an "additional insured." Your attorney and insurance professional can determine if you need this type of protection. The cost is relatively small.

The landowner should consult their own insurance professional to determine the minimum amounts for each of these coverages. The purpose of this coverage is to supplement that which the owner carries, not replace it.

Having the operator carry crop insurance will provide security that there will be money available to cover any cash rent payments that may be due. Since carrying insurance is a personal decision, this is a negotiable item. It is uncommon for operators to carry crop insurance that protects the owner's interest in the crop. Many operators who farm over a wide geographical area self-insure for crop disasters.

Federal farm program policies now suggests that the owner and the operator both carry some crop insurance as a risk management tool. Each party is responsible for paying for this and any supplemental insurance they may have.

Liability insurance is written differently by different companies. Some policies have individual limits (per person) as well as limits on the total amount paid. Be sure that these limits are large enough to protect your estate in the advent of a law-suit. The need for environmental liability protection seems to be increasing. Not many insurance companies offer inexpensive coverage for environmental accidents. One needs to work with operator and insurance professional to determine their needs for this protection. The elimination of these risks or transfer of them to a professional applicator may suffice.

Social Security Considerations

Social Security considerations are important and are influencing leasing decisions. A self-employed person currently pays over 15% (15.3% in 1995) of his/her eligible or **earned** income in self-employment taxes. A person

who is already fully vested in the Social Security program may neither be able to afford nor want this extra tax liability.

Rental income, the income generated from cash renting, is deemed not to be **"earned income"** and therefore is not eligible for generating Social Security credits. Consequently, no Social Security tax is due on this income.

Crop-share income *can* be considered to be **"earned income"** and thus subject to Social Security tax. However, there are ways that crop-share income can be classified as rental income. (See Footnote).¹

Time and money will be well spent in discussing this point with your tax professional or attorney to determine if either course of action is advantageous to you.

