

# FEATURES OF THEORETICAL AND METHODOLOGICAL APPROACHES TO RENTAL FEE DEFINITION IN FOREIGN COUNTRIES

## **Abdraim Bakytzhan Zharylkasynovich**

LLD, professor, academician of the Academy of Juridical Sciences of the Republic of Kazakhstan L. N. Gumilyov Eurasian National University, Astana

## **Suleimenova Saule Zhussupbekovna**

LLD, professor  
Al-Farabi Kazakh National University

## **Saimova Sholpan Altynbekovna**

2nd year Ph.D student  
L. N. Gumilyov Eurasian National University, Astana  
Address: 5 Munaitpasov Str., Astana, 010008, Republic of Kazakhstan  
L.N. Gumilyov Eurasian National University  
Phone: 8 (7172) 35 38 06  
E-mail: enu@enu.kz

*In the developed system of land use fees the rent in the greatest measure, in comparison with other types of a payment, represents itself as a market indicator. This article is devoted to the theoretical and methodical analysis of rental fee for a land in foreign countries. Authors give special attention to studying of the current legislation of foreign countries in this area, identification of its gaps and shortcomings, development of recommendations and the offers directed on improvement of the existing land legislation.*

Land rent as the economic and legal event has multithousand-year history. However the modern concept of rent was created first of all proceeding from principles of the Roman right at division of concepts of the owner and the user of property, including the land. For the last century these principles of the rent relations developed gradually, being formed as on the basis of logic principles of the Roman

right (for example, in Napoleon's Code), and at the expense of accumulation of norms of a common law (that is especially characteristic for Great Britain), regulating the land relations, and precedents in legal practice [1, p. 11].

Formation of the rent relations in Great Britain where earlier, than in other countries, the bourgeois relations in agriculture was created, where still rent

of the land is the most widespread form of land use and where, as we know, on the basis of long-term practice of the economic relations the classical theory of a land rent of D. Riccardo [2, p. 33]. English experience formed a historical basis of formation and the Marxist of the theory of a land rent [3, p. 680].

In the developed system of land payments a rental fee in the greatest measure, in comparison with other types of a payment (the land tax, standard price of the land), represents itself as a market indicator. There are many approaches to establishment of rental fee. In Denmark, Ireland, Greece, Luxembourg and Norway the land owner and the tenant independently agree about the amount of rental fees. In other states where rent has considerably great value, there is a legislation on rent regulation. The law provides also regulation or the administrative statement of a rental fee in Ireland and in France. The authorities can supervise a rental fee, establishing the maximum or its standard amounts. On this basis contracts on rent prepare actually. Such practice exists in the Netherlands, Spain, Belgium, Portugal and Japan. Estimate a rent thus in a monetary form, proceeding from a potential crop and the prices for last years [4, p. 26]. Thus, regulation of a rental fee depends on specifics of each country and consequently to reveal the general regularity here difficultly though distinction between more liberal transatlantic and more regulated, European and Japanese is visible. Here traditions, and land provisions are besides important national both. Rates and efficiency of development of the rent relations considerably depend on principles of formation and a type of rental fees. In

foreign practice apply the following forms of a rent more often: the fixed monetary – establish and pay in the form of a certain sum of money; the natural – establish and pay in the form of a certain quantity of agricultural production; flexible monetary payment, natural and monetary. The type of a rental fee is selected by the tenant and the land owner, proceeding their specific conditions, and fixes it in the contract.

The rental fee represents a type of the profit, annually arriving to the land owner lot from its delivery in rent. It has the double nature: firstly, it is compensation to the owner for temporary deprivation of the property right; secondly, it is a payment of the tenant to the owner of the land lot. The rental fee consists: from amortization of fixed capital, investment in this land in the form of various buildings, constructions, loan percent for other invested; a land rent depending on fertility and a site of the land lot. It includes the differentiated rent (the first and the second), exclusive and absolute rents. A land rent as a component of rental fees define according to the land inventory which is developed in the various countries by an English method or a method by Torrenso.

At a monetary form of rental fees the tenant pays to the land owner the fixed rate of the rental fee calculated on all lot or by hectares. Such payment doesn't depend on the received crop and tenant's effective work. It can pay prior to the beginning of harvesting or after it or parts within a year. The land owner is completely eliminated from management of an economy. The tenant is independent in farm management and bears unlimited responsibility for risk [5, p. 470–471].

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The fixed monetary rental fee guarantees to the land owner the stable income, releasing him from participation in production and marketing risk. This form of payment is suitable for land owners shares who don't live in the locations of these plots and aren't engaged in agricultural production. The tenant in this case completely responsible for risk also has the large powers, full production independence in management of the rented site and income distribution, and the owner of a share, without losing the right to it, receives the fixed income.

The rate of the fixed rental fee is defined by the market of the concrete region, reflecting balance of supply and demand in the field of agricultural lands rent. The amount of a rental fee depends on the area and is caused by local traditions. The rate can be calculated taking into account expenses of each of the partners connected with production of agricultural production. But it all the same doesn't depend on results of economic activity. So, in Canada the tenant pays to the land owner the fixed sum for the land use and its improvement. Thus, the tenant gets all income and all rights to governmental payments and subsidies. The tenant provides labor force, cars and incurs all expenses, except taxes on a property, insurance and payment of major overhaul of constructions.

However the monetary form of a payment is connected with quite big risk for the tenant in the conditions of considerable changes of productivity and the prices for

agricultural production. Under landslide of prices or gross collecting, under the fixed rate of a rental fee the farmer can face serious financial difficulties. This circumstance causes distribution of natural forms of a rental fee.

Natural rental fee – traditional type of the guaranteed payments under sharecropping (natural) rent when the tenant pays off to the land owner with a part of the received product. The amount of a natural payment makes a certain share of received production (1/3 – in France, 1/2 – Spain, from 1/4 – in the USA, etc.) in nature or terms of money (in the current prices). The land owner pays a tax on a property and if necessary organizes production storage. The tenant receives production rest, provides cars, work and incurs the operating costs necessary for receiving a crop.

Economic independence and the tenant's income are in proportion limited thus. This form of a rental fee can be effective at calculations with owners of the sites (shares), which can't participate in production (pensioners, disabled people, rural intellectuals).

It is possible to point out two the most widespread (the USA, Canada) ways of definition of a natural rental fee. Before the conclusion of the lease agreement partners count up and distribute among themselves necessary expenses, and then in proportion establish share of participation in the received result. At the second way in advance stipulate a crop share as the amount of a rental fee and in proportion to it divide expenses.

Payment of rental fee by a part of industrial production provides to the land owner certain advantages in favorable

years, but he also compels to divide with the tenant the risk which is connected with prices fluctuation of production volume. Mitigation of a risk situation for the tenant is accompanied by partial loss of economic independence. The tenant is obliged to coordinate with the land owner a number of important questions of the activity, for example a type of cultivated cultures, structure of the areas occupied by them, type and volume of accepted fertilizers etc. Distribution of risks between partners of the lease agreement brings also to that the rental fee at sharecropping is usually higher, than at the fixed monetary rent, is a natural payment of the tenant for lower risk.

The sharecropping form of rent is widespread by production of cultures with the high market risk of realization caused by prices fluctuation and a crop, for example in wine growing (France, Switzerland, Austria). In the USA and Canada sharecropping rent is used widely in areas of production of grain or other cultures, by collecting, processing and which storage of a crop aren't connected with considerable difficulties for the land owner.

In a number of the countries this type of rent or refused (Germany, etc.), or reduced to a minimum. So, in Spain the lands rented by sharecroppers, make 3,4%, in France – 1% of processed lands, in Switzerland only 0,5% of farms – share farms.

The flexible monetary rental fee combines lines of monetary and payment of sharecropping system. It coordinates the amount of a rent rate to the price for production or productivity or at the same time with these both indicators. This dependence allows to share risk between the land owner and the tenant, and also to

overcome some problems arising during traditional land rent with monetary or payment in kind.

Flexible rental fees are based on the preliminary agreement of the land owner and the tenant on a certain quantity of production and a design procedure of the average price. The last can be established at level current, average in a year, for some years. Thus the tenant's liability for risk in fluctuation productivity and the land owner – in fluctuation in prices isn't excluded. However the land owner has the right to a part of the additional profit received from unexpected rise in prices for agricultural production.

Along with it, exists various methods of calculation of flexible rental fees. So, in the USA the land owner and the tenant agree about a base rate of rental fees which apply until the price fluctuates in certain limits. For example, the base rate for 1 hectare can be 148,3 dollars at the price for 1t of made production 100 ... 110 dollars; at each change of the price for production on 1 dollars it is more or less limit a rent rate for 1 hectare will increase or decrease on 1,48 dollars.

Thus, the flexible system of a rental fee is more independent, than payment in kind, and is more dynamic, than the monetary fixed payments.

In the majority of the countries of a form of rental fee choose freely and at the discretion of the parties. So, in Great Britain and Germany a rental fee raise only in a monetary form, and in Denmark and the Netherlands the form of a rental fee is ordered in a legislative order (in Denmark – flexible monetary, in the Netherlands – monetary). In the USA and Canada widely apply a natural rent.

Irrespective of a type of rental fees the rent for the land use should include amortization of the fixed capital invested in this land in the form of various buildings, constructions, loan percent for other invested and the land rent depending on fertility of a site.

Methodical approaches of definition of a rental fee in foreign countries considerably vary. To the conclusion of the lease agreement in the majority of the countries do careful calculations of a rough rent. For this purpose use as absolute indicators (productivity, expenses, the income, the prices, etc.), and relative, i.e. settlement amounts (factors, indexes, a ratio and so forth). Take into consideration efficiency of land lands, duration of term of rent. As sources of information the actual expenses on a rented land, the prices, the actual and market data on a rent serve in the region, the amount of payments and contributions, and also the state subsidies [6, p. 8].

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There are rather various methodic of a rental fee which are based on one of three approaches: on the basis of a net profit of the tenant, expenses of the land owner and the owner participation in a net profit. Each of these approaches gives the different rate of a rent, and uses them depending on supply and demand on the land, a type of a rental fee.

The first methods are based on a principle on which after rent payment a net profit of the tenant allows him to cover the expenses and to get profit for work and farm management. According to the owner method of expenses, they count up his costs of unit of area which he surely aspires to compensate. There are consisting of percent on the investments enclosed in the land, obligatory taxes and insurance payments, and also buildings amortization, irrigational constructions, obstacles, etc. When the owner's method of participation is used in a net profit the rate of a rental fee depends on the expected income [7, p. 15].

Conditional classification and the analysis of types of a rental fee and methods of their calculation give granting about the basic principles of development of rental fees. On their basis there is a set of options of definition of rental fees. Contractual freedom of the rent relations allows adapting flexibly in each case requirement of the parties for real conditions.

So, in Italy the cadastral approach is taken for a basis of a rental fee. Depending on an environment, qualities of the soil and type of cultures change it by means of the

factors which limits establish the law and periodically reconsider. In the Netherlands the rental fee depends on a type of agricultural lands (an arable land, haymaking's and pastures, lands for gardening, vegetable growing and floriculture). In separate types allocate soil groups.

The fixed monetary rental fee in Germany often replace with the codified payments which amount is established and in the subsequent is regulated depending on a ratio of certain indexes, for example combinations of an index of cost movement of life and an index of purchase prices movement in the region.

The amounts of rent in Switzerland is counted on the basis of crop cost which is accurate at observance of all technological actions, and in Denmark for its basis is taken market price 500 ... 600 kg of barley.

In Austria a rental fee is defined, proceeding from market land cost, predicted

efficiency of land lands, a cost assessment of actions for their improvement. The difference in a rental fee between regions is multiple to four.

In Great Britain an initial rental fee is contractual, and then special experts check its validity calculation for a formula which considers efficiency of the land lot and possible profitability of a farm.

In countries of Western Europe the amount of a rental fee for 1 hectare fluctuates from 80 ... 90 ECU, in Scotland to 200 ... 250 ECU, in Germany and the Netherlands and makes 1 ... 3% of the price of the land. It is rather low indicator of capital productivity ratio testifies that rent is favorable to the tenant, and sometimes even is more favorable, than a land acquisition in a property. On the average across the USA the main rental fee makes 6% of the income received by the tenant that testifies about its profitability.

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