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THE BEGINNER'S GUIDE TO FARMLAND OWNERSHIP

Navigating Your Journey as a Novice Landowner

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Navigating Your Journey as a Novice Landowner

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Congratulations on being a farmland owner!

Your land is not only a valuable asset but also a key contributor to agriculture and the broader economy. If you are a new landowner, you may be a little nervous or uncertain about the best way to manage your farmland. This publication is designed to help. Whether you've inherited farmland or recently acquired it with little or no experience in farm management, you'll find practical insights and strategies to navigate your options.

What this guide covers

No matter your plans—selling, leasing or preserving your land as a family legacy—this guide provides practical ideas and strategies to navigate those decisions effectively. The following topics are each addressed in detail:

Be aware that regional and state variations can affect you and your farmland

The author’s knowledge is primarily based on agriculture and laws in the State of Ohio. While much of the information is applicable to farmland across the country, readers should consider regional variations and differences in state laws. In particular, farmland ownership and leasing issues in the western United States may differ from those discussed here. Be sure to take into account the localized aspects relevant to your area when applying the guidance from this publication.

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Additional resources

For additional resources on farmland ownership, leasing, management, and agricultural laws, visit Ohio State University's Farm Office website at **https://farmoffice.osu.edu**.

The information contained in this bulletin is provided for educational purposes only. It is not legal advice and is not a substitute for the need to consult with a competent attorney licensed to practice law in the appropriate jurisdiction.

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Chapter 1. Your Farmland

Farmland Data and Statistics

Before we address issues specific to your farm, let's explore some data and statistics related to farmland. There is approximately 880 million acres of farmland in the United States.[1] Much of the farmland is leased, with about 39% of the land farmed by someone other than the farmland owner. Additionally, 80% of leased farmland is owned by non-farm owners who do not operate farms. The top five states for the most rented farmland, by percent of total farmland, are Illinois, Louisiana, Kansas, North Dakota and Delaware. [2]

Some non-farmer owners may be people who have close ties to the land and live on or near the farmland. However, a significant portion of the rented farmland is owned by absentee landlords - people who may not live in the area and have very little knowledge or understanding of farming. In Ohio, the average non-farmer landowner lives about 100 miles away from their farmland.[3]

It's a Landowner's Market

The demand for farmland consistently surpasses its availability, especially in the Midwest. This means there is a constant stream of farmers seeking to either purchase or lease land. Larger tracts of farmland with superior soil quality are especially sought after, attracting many interested buyers or tenants. While smaller, less productive farms may not attract as much demand, there is almost always a potential buyer in the market.

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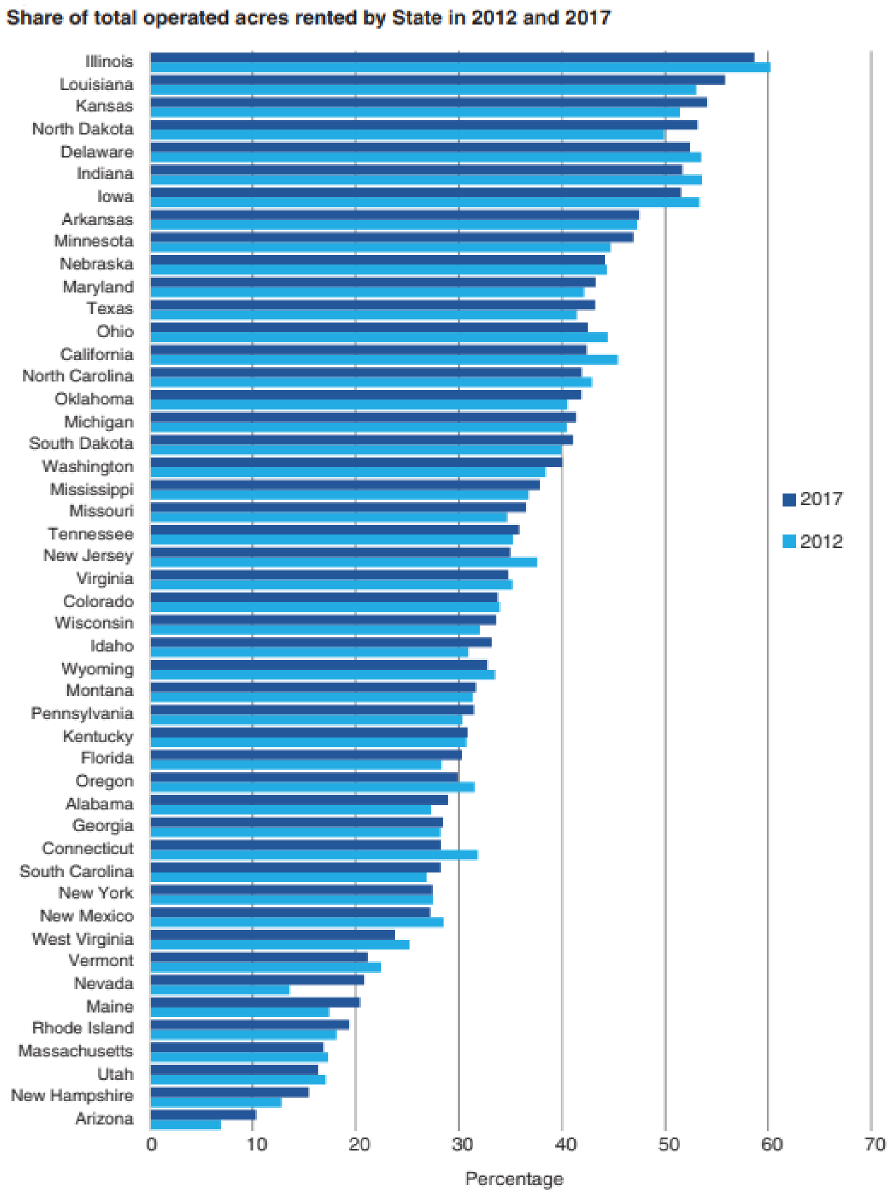
[1] *U.S. Census of Agriculture*. USDA-ERS. 2022

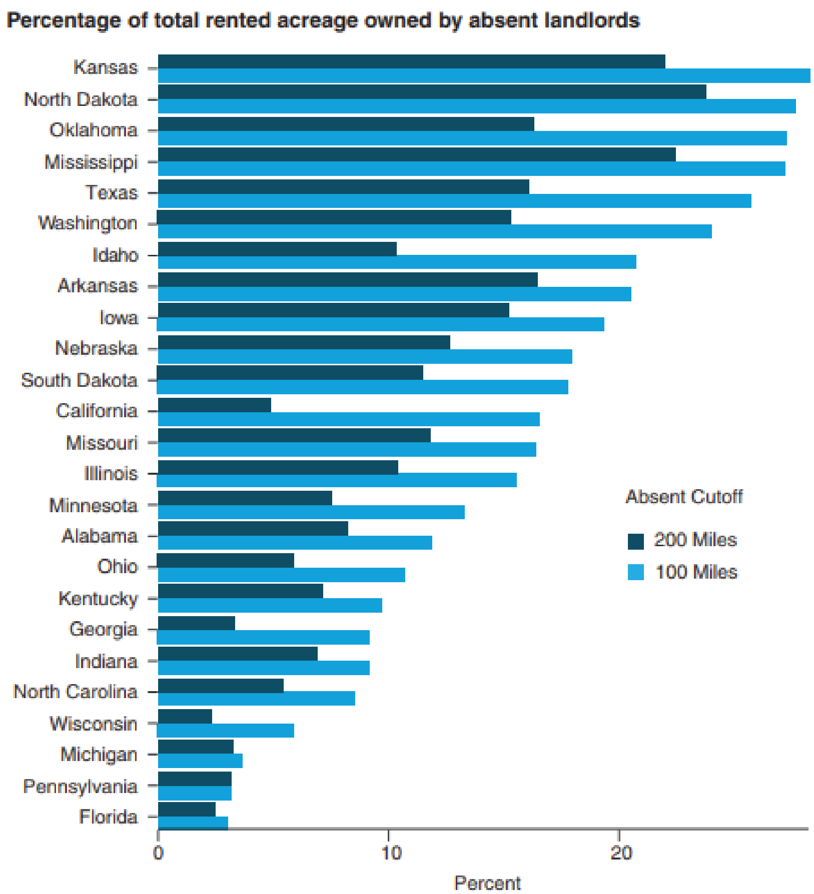
[2] *Absent Landlords in Agriculture – A Statistical Analysis*. USDA-ERS. March, 2021.

[3] *Absent Landlords in Agriculture – A Statistical Analysis*. USDA-ERS. March, 2021.

The key takeaway is that as a farmland owner, you hold significant leverage in the transaction process. Hence, it's prudent to be patient. You do not need to accept the first offer presented to buy or lease your farm. Instead, take the time to thoroughly assess your options and consider various factors before making a decision. Remember, you are in the driver's seat, and a little patience and careful consideration can lead to more favorable outcomes.



Source: Absent Landlords in Agriculture – A Statistical Analysis. USDA-ERS. March, 2021.



Source: Absent Landlords in Agriculture – A Statistical Analysis. USDA-ERS. March, 2021.

Key Points

- Around 39% of U.S. farmland is farmed by someone other than the owner.
- Approximately 80% of leased farmland is owned by non-farmers.
- Demand for farmland consistently exceeds supply.
- Larger farms with superior soil quality attract the highest demand.
- You’re in the driver’s seat - take time to carefully consider options.
- Negotiate smartly, use your leverage as the farmland owner.

Chapter 2. What is the Value of Your Farmland?

The first question you may ask about your farmland is: "what is it worth?" Determining the value of your farm is a critical step before making any decisions regarding its future. But how do you determine the value of your farmland?

Appraisals

Outside of selling your farm at public auction,[4] an appraisal is generally the best method of determining the value of your farm. An appraisal conducted by a qualified appraiser evaluates the farmland based on comparable sales and income potential. The appraiser considers these factors to provide an estimated value of the property.

If you've inherited your farm, an appraisal may have been performed for the previous owner's estate. You can request a copy of this appraisal from the executor or estate attorney. If the appraisal is relatively recent, typically within a year or two, it can aid in determining the market value of the farm.

Who Does the Appraisal?

Anyone knowledgeable about farmland prices and trends can conduct an appraisal, including realtors and auctioneers. These real estate professionals are closely tied to the real estate market and can provide a good idea of what local farmland may currently be worth. Keep in mind that some realtors or auctioneers may be influenced, either consciously or subconsciously, to make the value a little low to trigger a quicker sale or a little high to entice listing the property for sale.

[4] A public auction is often considered the most accurate way to determine the value of farmland because it establishes a true market value through open, competitive bidding.

Licensed appraisers are real estate specialists trained to deliver unbiased and objective assessments of property value. These professionals adhere to stringent professional standards and guidelines set by appraisal organizations and regulatory bodies, ensuring an impartial evaluation, especially in complex valuation scenarios. The American Society of Farm Managers and Rural Appraisers website at asfmra.org is a good source to find a licensed appraiser in your area.

A licensed appraiser will charge a fee for their services, which is typically higher than the fees of a realtor or auctioneer. However, the added expense may be justified by the unbiased valuation they provide, ensuring a well-documented assessment of your farmland's worth.

Some of the advantages of using a licensed appraiser include:

1. Unbiased and Independent Valuation – A licensed appraiser provides an objective, market-based valuation without a vested interest in selling your property.
2. Certified Expertise – Appraisers undergo rigorous training, testing, and certification to evaluate property values accurately. Their assessments are based on industry standards, ensuring a reliable and professional appraisal.
3. Legal and Financial Credibility – A licensed appraisal is often required for legal matters such as estate planning, taxation, lending, and litigation. Banks, courts, and government agencies recognize appraisals from licensed professionals over informal estimates from realtors or auctioneers.
4. Comprehensive Market Analysis – Appraisers use comparative sales data, income potential, soil quality, zoning, and land use restrictions to determine farmland value, providing a more thorough and defensible valuation than a realtor’s market estimate or an auctioneer’s projected sale price.
5. Regulatory Compliance – Licensed appraisers must adhere to Uniform Standards of Professional Appraisal Practice (USPAP) and state licensing requirements, ensuring ethical and legally sound valuations. Realtors and auctioneers are not held to the same appraisal standards.

Other Sources of Farmland Valuation

In addition to appraisals, farmland values are also accessible through sources such as the USDA and land grant universities.[5] These values are established through surveys and research methodologies and are often available online at no cost. However, it's important to note that government and university land values generally provide broad estimates for general regions rather than specific farms. Therefore, there may be significant variations in farmland prices within the data area. For example, in Coshocton County, Ohio, less fertile, rolling farmland may be valued at around $4,000 per acre, while higher-quality farmland, particularly in river bottoms, may fetch prices as high as $12,000 per acre. While government or university data can offer a helpful approximation of farmland value for a given area, its relevance to your individual farm may be limited.

Taking the Next Step

- ✓ If the land was part of an estate, determine if a recent appraisal is available.
- ✓ If no appraisal exists, consider hiring an appraiser.
- ✓ Find an appraiser who is familiar valuing farmland and evaluate their qualifications and credentials.
- ✓ If an appraisal is not feasible, consult government or university land valuation reports.
- ✓ If using government or university data, recognize that these sources provide general guidance, not precise valuations for individual farms.

[5] A simple internet search for "(State Name) farmland values" will usually provide several good sources for farmland values. Try to rely on information from .edu and .gov sources.

Chapter 3. Leasing Your Farmland

As previously stated, a significant portion of farmland in the U.S. is leased and can be a great source of steady and secure income. Additionally, many farmland owners choose to retain ownership of their land to keep the heritage of the land in the family and to remain flexible as to future uses of the land. For many farm owners, leasing is preferable to selling the land.

What is a Lease?

A farm lease is a legal agreement between a landowner and a tenant that grants the tenant the right to use the land for agricultural purposes in exchange for payment. The leases include key terms such as the duration of the lease, rent structure, land use restrictions, maintenance responsibilities, and other conditions. Farm leases can be short-term (1-3 years) or long-term, depending on the agreement between the parties. They help landowners generate income from their property while allowing tenants to farm without the financial burden of land ownership. Properly drafted farm lease agreements help clarify expectations, reduce disputes, and ensure a fair and productive arrangement for both parties.

Types of Leases

Farm leases come in several forms, each with its own structure and benefits. The following is a brief overview of the main types of farm leases.

1. Cash Rent Lease

A cash rent lease represents the most straightforward form of leasing arrangement for farmland. In this setup, the landowner and tenant agree upon a fixed rental rate, which remains unchanged regardless of crop yields or market prices. This ensures the landowner receives a known, consistent income without being affected by fluctuations in agricultural markets or crop yields. Cash rent leases are the most popular type of farmland leases due to their simplicity and definitive rent payments.

While a cash rent lease shields the landowner from low crop prices and yields, it also limits their potential gains in prosperous years. During years of abundant harvests and high crop prices, the landowner misses out on the opportunity to share in the increased profits.

Consider the following cash rent lease example:

> *Susan agrees to lease her farmland to Sarah. They negotiate a two-year cash rent lease during which Sarah will pay $20,000 of rent to Susan annually. In year one of the lease, the area where the farm is located experiences a drought and crop prices are low. Even though crop conditions are poor, Sarah is still required to pay Susan $20,000. In year two of the lease, growing conditions are near perfect and crop prices are high. Sarah will make considerable profit from the farm due to high yields and prices but is only required to pay Susan the pre-agreed upon $20,000 rent.*

This example illustrates how the security of a cash rent lease ensures a steady income for the landowner but may restrict their earning potential during prosperous years.

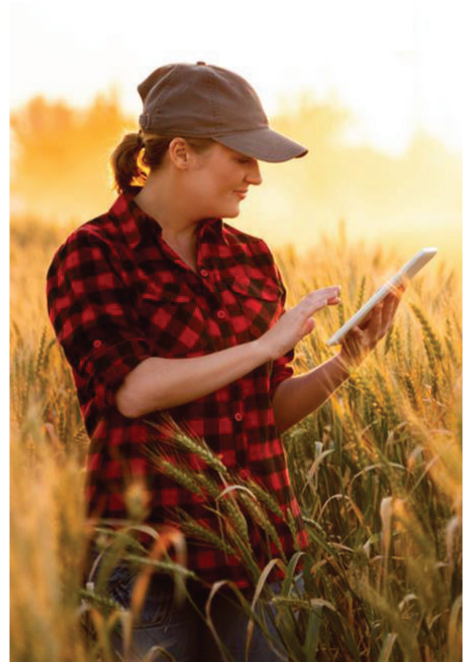
Advantages of a cash lease

- Most simple lease structure.
- Provides reliable, known lease payments to landowner.
- Landowner is not affected by fluctuations in crop prices or crop yields.

Disadvantages of a cash lease

- Landowner does not benefit from high crop prices or yields.

2. Share Rent Lease



Share rent leases present an alternative approach for landowners compared to cash rent arrangements. Instead of a predetermined sum, landowners receive a percentage of the crop harvested, allowing them to benefit from prosperous seasons. However, this arrangement requires sharing the risks associated with poor crop years.

Various share rent structures exist, offering flexibility to both parties involved. One common framework involves the landowner providing only the land and receiving one-third of the crop yield in return. Another option entails the landowner providing the land and sharing 50% of the input costs, such as seed and fertilizer, while also receiving half of the harvest.

Consider the following share rent lease example:

> *Susan and Sarah agree upon a share rent arrangement. Susan provides her land and pays one-half of the input costs, while Sarah covers the remaining input costs, provides machinery and labor, and manages all aspects of production and harvest. In return, Susan receives one-half of the harvested crop annually, which she can then sell at her discretion.*

Trust is paramount in share rent arrangements. Typically, landowners lack the means to directly measure or weigh the harvested crop, relying instead on the tenant's accurate reporting. Similarly, if the landowner contributes to input costs, they rely on the tenant to calculate their fair share. While uncommon, share rent leases can be manipulated by unscrupulous tenants to exploit the situation by under-reporting yields or inflating costs.

Despite some uncertainties, share rent leases remain popular. Some landowners accept lower income during lean years for the promise of higher returns in favorable seasons. Additionally, share rent arrangements offer a sense of continuity and purpose for retired farmers. By staying involved in land and crop decisions, they can maintain ties to their agricultural heritage and contribute their expertise to the farming enterprise.

Advantages of a share rent lease

- Landowner shares in benefits of good crop and price years allowing for potential of additional income.
- Landowner is more involved with tenant and the farmland.

Disadvantages of a share rent lease

- Landowner assumes risk of poor yields or poor crop prices.
- More complicated than a cash rent lease.
- Must rely on the tenant to provide accurate information to determine landowner's share of costs and crop.

3. Flex Leases

A flex lease, also known as a variable cash lease, strikes a middle ground between the stability of a cash lease and the shared profits of a share rent lease. It offers landowners a guaranteed income in the form of a base rent payment, like a cash lease. However, a flex lease goes a step further by adding a performance-based bonus on top of the base rent. This bonus is calculated using a formula that considers factors like crop yield and market prices. If yields are higher than expected, and/or if market prices are high, the landowner receives a share of the profits through this bonus. This allows the landowner to benefit from a particularly successful year, unlike a traditional cash lease. Of course, there's always a flip side. The base rent is usually lower than a cash rent lease and if yields fall short or prices slump, the bonus payout will be lower or altogether absent, meaning the landowner shares some risk as well. Overall, a flex lease can be an attractive option for both landowners and tenants seeking a balance between predictability and potential for higher returns.

Consider the following flex lease example:

> *Susan and Sarah agree to enter into a flex lease agreement. Sarah will pay Susan $17,000/year for the use of her land. Additionally, if corn yields exceed 200 bushel/acre and prices exceed $5.00/bushel, Sarah will pay an additional $5,000 of rent. Sarah's corn yield was 220 bushels/acre and the price of corn was $5.25 for the year. Susan will receive an addition $5,000 of rent in addition to the $17,000 she already received as base rent.*

The key challenge with flex leases lies in crafting the bonus formula. Landowners and tenants must work together to establish a fair bonus structure based on factors relevant to their specific situation. There's no one-size-fits-all approach, and each agreement should be tailored to the unique characteristics of the farm and the tenant's capabilities. Because each farm and tenant is unique, the flex lease arrangement needs to be done on a case by case basis. Iowa State University,[6] Purdue University[7] and the University of Illinois[8] provide good resources regarding flex leases calculations.

Advantages of a flex lease

- Establishes a guaranteed, minimum lease payment while allowing for a bonus payment in good years.
- In poor yield or price years, can result in lower lease payments than a cash rent lease.

Disadvantages of a flex lease

- Usually the most complicated type of lease.
- Landowner must rely on the tenant to provide accurate information on crop yields.
- In good yield or price years, may not provide as much income as a share lease.

Which Crop Lease is Right for You?

Choosing between a cash rent, share rent, or flex lease depends on your priorities as a landowner. Here's a breakdown to help you decide:

- Cash Rent: Ideal if you are seeking stability and predictable income as well as simplicity. You receive a fixed annual payment regardless of crop performance, minimizing risk but also capping potential profits in good years.
- Share Rent: This option is attractive if you are comfortable sharing the risks and rewards of farming. Your income fluctuates with crop yields and market prices, but you have the potential for higher profits in successful years.
- Flex Rent: Offers a middle ground. You receive a guaranteed base rent like a cash lease but also have the chance to earn a performance-based bonus if crop yields or prices exceed expectations. This provides some income security while allowing you to benefit from exceptional years. It is usually the most complicated type of lease.

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[6] https://www.extension.iastate.edu/agdm/wholefarm/html/c2-21.html
[7] https://ag.purdue.edu/department/agecon/_docs/extension-resources/flex-rent-crop-calculation-tool-user-guide.pdf
[8] https://extension.illinois.edu/blogs/acres-knowledge/2021-08-06-what-about-flexible-cash-rent-lease

Consider your risk tolerance and how involved you want to be in the farming operation. Cash rent offers the least involvement, while share rent requires close collaboration with the tenant. Flex rent provides a balance between the two. Ultimately, the best lease arrangement depends on your individual goals and preferences.

Lease Type	Income Stability	Risk to Landowner	Base Rent	Complexity
Cash Rent	High (fixed rent)	Low	Higher	Simple
Share Rent	Variable (profit-based)	Higher	Lower	Moderate
Flex	Medium (base rent + performance bonus)	Medium	None	Most complex

Pasture Leases

Not all agricultural land serves the same purpose; some areas are designated for livestock grazing rather than crop cultivation. Typically, lease rates for pastureland are lower compared to cropland. This discrepancy stems from the generally lower productivity of pastureland, which is better suited for livestock raising, resulting in a decreased value and lease rate. For instance, in 2022, the average cash rent for cropland in Ohio was $170/acre with pastureland having an average rent of $25.50/acre[9]. While pastureland is indeed a valuable asset, it will likely not yield the same level of income as cropland.

[9] USDA-NASS

There are similarities between crop and pasture leases but there are also distinct features to consider in a pasture lease. First, the lease rate may be based on a per acre, per head, or weight gain basis. Second, it's essential to establish a stocking rate that limits the number of animals permitted on the land. Finally, a pasture lease often includes provisions for fencing and buildings, raising questions about maintenance and repair responsibilities between the parties. For a comprehensive guide on developing a pasture lease, refer to *"Pasture Rental Agreement for Your Farm,"* available at aglease101.org.

Leases Should Be in Writing

Regardless of the type of lease, it's imperative to have it documented in writing. Verbal agreements are prone to misunderstandings, disputes, and difficulties in enforcement. Most states, including Ohio, require a lease to be in writing to be enforceable. To ensure clarity and enforceability, it's advisable to engage an attorney well-versed in farm lease agreements. A qualified attorney can assist in drafting a comprehensive lease tailored to the needs of both landlord and tenant.

A valuable resource for accessing crop and pasture lease examples is aglease101.org. Utilizing these templates can provide guidance and structure when developing your farm lease agreement.

Professional Farm Managers

If you're considering leasing your farmland but prefer not to handle the day-to-day management responsibilities, hiring a farm manager could be the solution. A farm manager takes on the tasks of marketing your farmland to potential tenants, negotiating lease agreements, and overseeing the farm's maintenance to ensure it is well-cared for. With backgrounds in both farming and business management, farm managers are well-equipped to manage leased farmland effectively.

Typically, farm managers are compensated through a percentage of the lease payment. While the exact fees can vary depending on the specifics of each arrangement, a typical range may be 5% to 10% of the lease payment. Although this fee is significant, it's often justified by the value farm managers bring. Through skillful negotiation and implementing sound management practices, they can potentially increase rental prices and enhance the overall profitability of the farm, more than paying for their fees.

To connect with a qualified farm manager, you can explore resources such as the American Society of Farm Managers and Rural Appraisers website at asfmra.org. There, you can find reputable professionals who can assist you in effectively managing your leased farmland.

How Much Will My Farmland Lease For?

In addition to determining the fair market value of your land, as discussed above, determining the lease value of your farmland is essential when negotiating lease terms and deciding upon whether to lease or sell the land. The lease value is the amount of money a tenant will pay to grow crops or livestock on your land. The lease value of farmland is influenced by numerous unique factors inherent to each property.

The most accessible method to gauge the lease value of your land is by referring to government or university data. The USDA regularly publishes lease values on a statewide and sometimes countywide basis, while many universities also offer similar data for farmland within their respective states. This information is readily accessible through internet searches. However, similar to farm values, it's important to note that while such data provides a useful starting point, the distinct characteristics of each farm may make area-wide averages less relevant. For example, in Coshocton County, Ohio, the average cropland rent for 2022 was $96/acre. However, marginal farmland may lease for approximately $50/acre, while prime farmland could command rates as high as $250/acre. Again, like land values, it is important to analyze the unique aspects of your specific farm to determine its rental value.

Some appraisers may offer services to determine lease rates. Unlike farmland sales prices, lease rates are typically not publicly available, which can pose challenges for appraisers in finding comparable data. Consequently, they may place greater emphasis on assessing the income potential of the property when determining lease rates.

Determining the rental value of your land is not as easy as finding the fair market value of your land. However, by using government or university data, appraisals, and asking other landowners in the area, you should be able to come up with a reasonable idea of the rental value of your land.

Is Farmland a Good Asset to Own and Lease, Rather than Selling?

While every investment carries its own set of considerations, farmland offers unique advantages that make it a good asset to own. Here's why:

- **Food Security and Growing Demand:** Farmland isn't a fad; it's the foundation for feeding a world with a constantly rising population. Unlike outdated appliances, farmland will never go out of style. As more people require sustenance, the need for agricultural land is not going to decline.

- **Historically Strong Appreciation:** Farmland has a proven track record of increasing in value. In the U.S., cropland prices increased from an average of $1,340 per acre in 1998 to $5,320 per acre in 2023,[10] a 397% jump. This compares favorably to the Dow Jones Industrial Average and S&P 500 which grew by 395% during the same timeframe.[11]
- **Steady Income Potential:** Farmland can be a source of reliable income.
- **Good Return on Investment:** Farmland has a track record of delivering strong returns. Over the past two decades (2002-2022), U.S. farmland delivered an average annual return of 12.75%.[12] This return combines income generated from the land and appreciation in its value.

Key Points

📜 A lease is an agreement allowing a tenant to farm your land in exchange for payment.

💰 A Cash Rent Lease provides a fixed and predictable income, but no extra profit from good years.

🌾 A Share Rent Lease causes Landowner to share in both risks and rewards.

📊 A Flex Lease is a hybrid of cash and share rent, with a base payment and performance bonuses.

🐄 Pasture Leases are different from crop leases; often priced per acre, per head, or by weight gain.

✍️ Always have a written lease to reduce the likelihood of disputes and ensure clarity on terms.

🤝 A professional farm manager can negotiate leases, oversee maintenance, and maximize income.

📈 Lease rates depend on soil quality, location, and market trends.

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[10] USDA-ERS.
[11] Average Closing Price, Macrotrends.net.
[12] Acretrader.com

Chapter 4. Selling Your Farmland

Why You May Want to Sell Your Farmland

Owning and leasing farmland is an enticing prospect. However, it's important to grasp its drawbacks before deciding upon continued ownership. The foremost challenge is liquidity. Unlike cash, farmland isn't easily convertible to funds. Owning $1,000,000 of farmland is very different than having $1,000,000 in your bank account.

The average rent as a percentage of fair market value has historically been around 3%, not including appreciation in value. In recent years, this percentage has dipped below 3% as farmland values have increased faster than farmland rents. In 2022, Ohio cropland rents were 2.3% of the land value.[13] So, owning $1,000,000 in farmland may generate around $23,000 of income each year. This modest return to value may not meet the needs of owners who desire more immediate funds. People who would like the entire value of the farm available to them immediately should consider selling the farmland rather than holding it as an investment.

Consider the following example:

> *Susan inherited a $1,000,000 farm from her parents. Susan is an architect and has always wanted to start her own architectural firm. She needs $500,000 to get her firm started. Susan receives $25,000 of rent from the farm each year. Although the $25,000 is a nice supplemental income to have, it is not enough to get her business started. Susan decides she wants to sell the farm so that she can use the sale proceeds to start her architectural firm.*

[13] *Western Ohio Cropland Values and Cash Rents 2021-22*, Ohio State University.

This example illustrates the liquidity challenge with farmland. If a significant portion of the value of the farmland is needed to fund other endeavors, the farmland will likely need to be sold to overcome the liquidity challenge.

Additionally, owning farmland entails ongoing management responsibilities, even if leased to tenants. Staying connected with tenants, keeping abreast of property maintenance,[14] monitoring land value trends and rental rates, and overseeing the farm's finances are all part of the package. Managing farmland does not need to be overly burdensome but it does take some time and effort and may not be for everyone.

How to Sell Farmland

If you have decided to sell your farmland, or are at least exploring a sale, the next issue becomes how to sell the farm. There are several different methods of selling farmland, each with advantages and disadvantages. The following is a summary of a few of the more popular methods with the corresponding advantages and disadvantages.

1. Private Sale – No Realtor

Using this method, the owner of the farmland contacts a potential buyer and negotiates terms and conditions directly with the potential buyer. No third-party realtor is used. This strategy is often used when the owner decides to sell the farm to the current tenant or someone else that the owner knows to have interest in purchasing the farm. If this method is used, it is very important to have a good idea of the fair market value of the farm. Also, the seller should consider consulting with an attorney to be sure all terms and conditions agreed upon are correctly included in a written, real estate purchase agreement. Generally, verbal agreements for the sale of real estate are not enforceable. Consider the following example:

> *Susan decides to sell her farm. Her tenant, Sarah, has mentioned previously that she would be interested in buying the farm if Susan were ever to sell. Susan obtains an appraisal and determines the farm is worth around $10,000/acre. To avoid the cost of a realtor or auction, Susan contacts Sarah directly and negotiates a sale for $10,000/acre.*

In this example, Susan is able to sell directly to her tenant without the need for a realtor. Again, this strategy works best when a potential buyer is already known by the landowner.

[14] Property maintenance may include mowing, drainage tile repair, access road repair, fencing repair.

One advantage of selling privately is being able to select the buyer. This may be important for a landowner who would like some control over who the next owner will be. In a public auction, the seller cannot control who the buyer may be and thus cannot control how the farmland may be used in the future.

Advantages of private sale – no realtor

- No costs for a realtor or auction.
- Sale can occur quickly.
- Control over who purchases the farm and how the farm will be used.

Disadvantages of private sale – no realtor

- Lacks expertise and guidance of a realtor.
- Risk of overlooking critical details without professional assistance.
- May have difficulty finding potential buyers.

2. Private Sale with Realtor

Enlisting the assistance of a realtor in a private farmland sale can broaden the reach to potential buyers and offer valuable expertise and guidance that many landowners may lack. Especially when working with a realtor specializing in agricultural real estate, they often possess an extensive network of potential buyers whom they can actively engage. Moreover, a realtor can adeptly manage negotiations and streamline the closing process in collaboration with the title company. It's important to note that realtors expect compensation for their services with fees depending on factors such as the realtor's experience and market conditions. An estimate of 4-6% of the sale price is a common commission for realtors. If feasible, prioritizing a realtor with a specialization in farmland transactions is advisable, and recommendations can often be sourced from entities like lenders, title companies, or fellow farmers and landowners.

Advantages of private sale with realtor

- Realtor provides expertise and experience.
- Access to many potential buyers.
- Realtor can conduct negotiations.
- Control over who purchases the farm and how the farm will be used.

Disadvantages of private sale with realtor

- Realtor fees.

3. Public Auction

Selling farmland through public auction involves allowing interested buyers to submit bids during a designated auction event. Auctions provide a transparent and competitive environment where interested buyers openly bid on the property, reflecting their perceived value of the property. This competitive bidding process allows the true market value of the property to emerge, as buyers are motivated to offer their highest bids to secure the purchase. Additionally, auctions typically attract a diverse pool of potential buyers, including farmers, investors, developers, and other individuals seeking to acquire property, thereby providing a comprehensive assessment of demand and market sentiment.

There are many auction companies that specialize in selling farmland and farm assets. These auction companies are able to market to a large pool of potential buyers interested in farmland. Using one of these auction companies can increase the sale price of the farm.

Farm auctions often include a reserve price. This is a confidential minimum price agreed upon between the seller and the auction company. The reserve price ensures that the property is not sold for a low price due to a lack of bidders or other conditions that may depress the bid prices. If the minimum reserve price is not met, the property does not sell. The seller should strongly consider using a reserve price to protect against unexpectedly low bids.

Like realtors, auction companies will require compensation for their services. The compensation can be negotiated with the auction company, but rates are usually similar to realtor rates or slightly higher due to the need to have facilities to host the auction event and requiring multiple people to conduct the auction and take bids.

Advantages of public auction

- Auction company provides expertise and experience.
- Best method to determine actual value of property.
- Access to many potential buyers.
- Competition of bidders can stimulate higher sale price.

Disadvantages of public auction

- No control over who purchases the property and possibly how the property is used.
- May take longer to schedule and conduct an auction.
- Cost of auction.

4. Closed Bids

The closed bid process presents a unique approach to selling farmland, blending elements of private sales and auctions. This method collects multiple bids while avoiding the public nature of traditional auctions. Typically, neither a realtor nor an auctioneer are used in this method. Here's how it unfolds:

1. Identification of Potential Buyers: The seller identifies potential buyers who might be interested in acquiring the farmland.
2. Bid Invitation: A bid invitation is extended to these potential buyers, outlining the terms and conditions of the bidding process.
3. Submission of Bids: Interested parties submit their bid offers to the seller.
4. Evaluation and Decision: The seller evaluates the received bids and reserves the right to accept or reject any offer. If a bid meets the seller's criteria, they may accept it and proceed towards closing.
5. Closing Process: Upon acceptance of a bid, the seller and buyer progress towards closing, finalizing the transaction.

The typical method of soliciting bids involves mailing bid packets to potential buyers. These packets usually contain a cover letter detailing the bidding process and a purchase contract outlining essential terms such as the required deposit, closing date, and payment of transaction costs. Prospective buyers indicate their proposed purchase price on the purchase contract and return it to the seller by the specified bidding deadline. Engaging an attorney to assist with the closed bid process is often a good idea to ensure the adequacy of all bid documents and help with bid analysis.

It's necessary for the seller to retain the right to reject any or all bids to ensure flexibility in the decision-making process. This prevents the seller from being bound to accept the highest bid even if it is below the property's market value. Sending bid packets exclusively to serious buyers helps avoid lowball offers aimed at acquiring the property at a significant discount.

Advantages of closed bids

- No costs for a realtor or auction.
- Control over who purchases the farm and how the farm will be used.
- Bids can help establish value of property.

Disadvantages of closed bids

- Lacks the expertise and guidance of a realtor or auctioneer.
- Limited pool of bidders.
- Can take a bit longer to extend invitations, collect bids and close.

Which Sale Option is Best for You?

The optimal method for selling your farmland depends on your priorities and goals. Here's a summary of the options:

- **Private Sale Without Realtor:** This is the most economical option but may require significant effort in marketing and negotiation. It works best if you have a specific buyer in mind or a local network of potential buyers.
- **Private Sale with Realtor:** Realtors bring expertise in marketing, pricing, and negotiation. This can be ideal for a wider buyer pool and a smoother transaction process but comes with realtor fees.
- **Public Auction:** Auctions generate excitement and can potentially drive up the sale price due to competitive bidding. However, the seller cannot control who purchases the property and there will be auction fees.
- **Closed Bid:** This method attracts serious buyers without the need for a public auction. It allows you to compare offers and choose the most favorable one while keeping the process private. No fees for a realtor or auctioneer but there may be some legal fees. *Note: this method can also be used for obtaining lease bids.*

Consider your urgency to sell, desired level of control over the process, and comfort level with marketing and negotiation when deciding upon your preferred sale method.

Key Points

📉 Farmland is not easily converted to cash. Unlike money in the bank, owning farmland means wealth is tied up in a physical asset that may take time to sell.

💰 Farmland rental income is relatively low, often below 3% of market value, making it a less liquid investment for those needing immediate funds.

🏗️ Even when leased, farmland requires oversight, including tenant relations, maintenance, rental negotiations, and financial tracking.

🔨 Selling your farmland may be the right choice depending on your individual circumstances.

Chapter 5. Using Your Own Land

You may be tempted to consider farming the land yourself. However, venturing into the realm of farming is fraught with challenges and risks. While the allure of cultivating the land and reaping its potential rewards may be enticing, it is imperative to approach this endeavor with a sober understanding of the formidable obstacles that lie ahead. Let's look at some of the challenges of starting your own farming operation.

The initial investment required to establish infrastructure, procure equipment, and implement farming practices is substantial, often far exceeding initial income projections. Moreover, the ongoing operational costs, including labor, maintenance, and input expenses, can quickly escalate, placing a significant strain on financial resources. Simply put, it takes considerable capital to start and maintain a farming operation.

Furthermore, the inherent unpredictability of agriculture, exacerbated by factors such as adverse weather conditions and unpredictable markets, poses a constant threat to profitability. Even the most meticulously constructed plans can be upended by unforeseen circumstances, leading to losses and financial hardship.

In addition to the financial risks, there are also significant personal sacrifices that must be considered. The demanding nature of farming requires a considerable commitment of time, energy, and resources, often at the expense of personal well-being and work-life balance. The relentless demands of the land can take a toll on physical health, mental resilience, and family relationships, testing the endurance of even the hardiest of individuals.

Moreover, the competitive landscape of modern agriculture, dominated by larger operations, presents formidable barriers to entry for small-scale farmers. In an industry characterized by consolidation and commodification, smaller farmers often struggle to compete with larger, more established players, facing pressure to scale up to survive.

Considering these challenges, it is essential to approach the prospect of farming one's own land with caution and circumspection. While the romantic ideal of agrarian self-sufficiency may hold appeal, the harsh realities of modern agriculture demand a realistic assessment of the risks and uncertainties involved. Before committing to such a venture, it is advisable to seek counsel from experienced professionals, conduct thorough due diligence, and carefully weigh the potential costs and benefits. Only by doing so can one make an informed decision that aligns with their financial, personal, and professional goals. Unless you have always wanted to be a farmer and are willing to make the financial and personal sacrifices necessary to become a farmer, selling or leasing the land is probably a better option.

Farmland as Collateral

Farmland can provide financial benefits beyond just sale proceeds or lease income. Farmland makes excellent collateral for loans because it holds its value, creates steady income, and does not disappear like other assets might. So, while owning farmland does have liquidity limitations, this obstacle can be overcome by acquiring loan proceeds with the farmland as collateral. Consider the example continued from before:

> *Susan needs $500,000 to start her architectural firm. Instead of selling her inherited farm, she obtains a loan for $500,000. The lender uses the $1,000,000 farm as collateral. Without the farm, Susan would not have had the necessary collateral to obtain the loan.*

This example underscores how a loan can alleviate liquidity challenges. By utilizing the farmland as collateral, Susan sidesteps the need to sell the farm outright, thus preserving the potential future benefits of ownership.

Key Points

- Starting a farming operation requires significant upfront capital
- Agriculture's unpredictable nature, including weather conditions and market fluctuations, can significantly impact profitability and sustainability.
- Farming requires extensive personal sacrifices
- The realities and challenges of modern agriculture demand careful consideration before starting your own farming operation.
- Farmland’s stable value makes it excellent collateral

Chapter 6. Taxes

When deciding what to do with your new farm, taxes must be considered. The true revenue from the land can only be determined by estimating the amount of taxes that will be owed. In some cases, a landowner will sell a farm and be shocked at the amount of taxes owed. In other cases, farms may be sold with little or no tax liability. The following is a brief, general discussion about taxes related to selling or leasing farmland. Before deciding on any course of action, be sure to consult with a tax professional who can evaluate your specific situation and determine potential tax consequences for your different options.

Taxes and Selling

When contemplating selling land, the inevitable question arises: "How much in taxes will I owe?" As with most tax-related inquiries, the answer hinges on several factors. Surprisingly, though, selling land can sometimes incur minimal or no taxes at all.

The Tax Basis

Central to understanding the tax implications of selling land is grasping the concept of its tax basis. The tax basis serves as the foundation for calculating capital gains or losses upon sale. How this basis is determined varies depending on how the land was acquired. For instance,[15]

- If the land was purchased, the tax basis is usually established by the purchase price.
- Land received as a gift maintains the same tax basis as the previous owner.
- Inherited land benefits from a stepped-up tax basis, valued as of the date of the prior owner's death. This value is determined through an appraisal, often conducted during estate administration, although not always.[16]

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[15] The tax basis for the vast majority of farms is determined by these methods. However, there are a few exceptions, so be sure to discuss the tax basis of your farm with your tax advisor.

[16] If the farm is sold within six months of the death of the previous owner, the IRS allows the sale price to establish the tax basis provided the sale is at arms-length.

Consider these scenarios:

- *Susan bought the Smith Farm ten years ago for $300,000. Presently, its fair market value stands at $500,000. The tax basis remains at $300,000.*
- *Susan received the Jones Farm from her parents as a gift. Her parents purchased the farm for $100,000. Today, its value is $500,000. The tax basis is $100,000.*
- *Susan recently inherited the Brown Farm from her grandfather. The farm was appraised at $500,000 at the time of the grandfather's death, setting its tax basis at $500,000.*

These examples underscore how the tax basis is contingent upon the method of acquisition. Understanding this fundamental concept is pivotal for anyone contemplating the sale of farmland.

How Do I Use the Tax Basis?

The tax basis is used to determine the capital gain upon a sale. Sale price minus tax basis equals capital gain. This gain is then subject to capital gains taxes. Using the previous examples and assuming each farm is sold for $500,000, let's compute the capital gains:

- The capital gain on the Smith Farm is $200,000.
- The capital gain on the Jones Farm is $400,000.
- The capital gain on the Brown Farm is $0.

These examples underscore the significance of the tax basis in determining the capital gain. When selling farmland, a higher tax basis translates to a lower capital gain and subsequently lower capital gains taxes. Understanding and managing the tax basis is therefore crucial for minimizing tax liabilities in farmland transactions.

This is a very basic discussion on determining capital gains. Properties that include buildings, bins, or other improvements may require a bit more analysis in determining potential tax liability due to depreciation recapture. Be sure to have your tax advisor determine the potential tax on your property to avoid any unwanted surprises.

The Capital Gains Tax

After you have determined the gain, you can determine the amount of capital gains tax that will be incurred.[17] Federal capital gain taxes are a graduated tax, meaning that the tax rate increases as income increases. The following are the capital gain tax percentages for 2025:

Tax Rate	Taxable Income ($)			
	Single	Married filing separately	Head of household	Married filing jointly
0%	Up to 48,350	Up to 48,350	Up to 64,750	Up to 96,700
15%	48,351 – 533,400	48,351 – 300,000	64,751 – 566,700	96,701 – 600,050
20%	Over 533,400	Over 300,000	Over 566,700	Over 600,050

What if I Don't Know the Tax Basis of My Farm?

You can usually determine the basis of your farm if you don't already know it. If the tax basis was established by purchase, the county auditor, county recorder or similar county offices will usually have a record of the purchase price. If the farm was inherited, ask the attorney who performed the estate administration for a copy of the appraisal. If an appraisal was not performed or you are unable to obtain the estate administration documents, you can have the farm appraised now.[18] All appraisals determine the value of property at some point in time in the past. Even if you inherited the farm 20 years ago, an appraisal can still be performed now, 20 years later. Also, many attorneys and accountants have experience in determining the tax basis of farmland. Contact an attorney or accountant in your area and ask for their assistance.

Can I Really Sell My Farm and Pay No Taxes?

Maybe. There are two circumstances in which you can sell your farm and pay no taxes. First, the tax basis must be equal to or greater than the sale price. This most commonly occurs when inherited land is sold shortly after having obtained it. Remember, the tax basis of inherited land receives a step-up in basis to the date of death value. If the land is sold for no more than the tax basis, the entire sale proceeds will be free of tax. We saw this in the previous example:

> *Because Susan inherited the Brown Farm with a tax basis of $500,000 and sold the farm for $500,000, the gain on the sale was $0. No gain, no taxes.*

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[17] In addition to the capital gains tax, there may be state tax, local tax and other federal taxes.

[18] An appraisal to establish the tax basis on inherited property must establish the value of the property as of the date of death. That is, what was the fair market value of the farmland at the owner's death?

Keep in mind that any portion of the sale price that exceeds the tax basis will result in a gain and thus capital gains taxes. For example, if the Brown Farm was sold for $550,000, capital gains tax would be applied to the $50,000 exceeding the tax basis. Also, as mentioned above, selling depreciated assets such as buildings and grain bins can cause income tax liability.

The second scenario for avoiding capital gains taxes is to reinvest the sale proceeds of the farmland into other business real estate. Section 1031 of the Internal Revenue Code, often called the "like-kind exchange," allows someone selling business real estate, like farmland, to reinvest the sale proceeds into replacement real estate without paying capital gains taxes.[19] In essence, the capital gains tax is deferred to the new, replacement property. Consider the following example:

> *Ten years ago, Susan purchased the Green Farm for $500,000. Susan sells the farm for $800,000. Susan has always wanted to buy the office building in which she has her architecture firm. Susan uses the $800,000 from the sale of the Green Farm and purchases the office building for $800,000.*

In this example, Susan will not pay capital gains tax on the sale of the Green Farm. She reinvested the sale proceeds in other business real estate so the IRS will allow her to defer the capital gains tax. Her newly purchased office building will have a tax basis of $500,000, she does not get a stepped-up tax basis to $800,000. So, if she ever sells the office building, she will use the original tax basis of the Green Farm to calculate capital gains taxes. It is important to note that the replacement property must be a business property, vacation homes and real estate used for personal benefit are not eligible for like-kind exchanges.

Taxes and Leasing

The lease income from renting farmland will create income tax liability. However, lease income generally results in lower overall taxes since self-employment taxes do not apply. Generally, rental payments are categorized as unearned or passive income, subject to income taxes but not self-employment taxes. For instance, a single filer in Ohio earning $40,000 in rental income would typically incur around $4,595 in federal income taxes and $744 in state income taxes,[20] without any self-employment taxes.

However, certain lease arrangements may trigger self-employment tax obligations. In cases where the landowner materially participates in a share rent agreement, lease

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[19] A 1031 exchange has many rules and technical details that are beyond the scope of this publication. Do not attempt an exchange yourself, work with a real estate professional familiar with real estate exchanges.

[20] Assuming no other income sources. City and local income taxes may also apply.

payments are considered earned income and thus subject to self-employment tax. Using the same example of $40,000 lease income, federal and state income taxes remain at $4,595 and $774, respectively. Yet, an additional $6,120 in self-employment taxes would apply.

Consequently, it's often more advantageous to avoid materially participating in a crop share arrangement, as demonstrated by the increased tax liability. Exceptions may arise for individuals nearing retirement age who aim to boost their social security contributions through paying self-employment taxes. Be sure to consult with your tax advisor about whether you should materially participate in a lease.

In summary, rental income is generally a favorable income source due to its exemption from self-employment tax, but careful consideration of lease arrangements is crucial to understand potential tax implications.

Key Points

- Know your tax basis.
- Calculate potential capital gains taxes.
- Stepped-up tax basis helps taxes.
- Rental income can save SE taxes.
- Buildings are taxed differently than land.
- Consult a tax professional.

Chapter 7. Alternative Uses for Your Farm

Farmland can be used for more purposes than just farming. Many farms across the country include oil and gas wells. Also, in the last few years, renewable energy leases for solar and wind have become popular. Like any other use of your farmland, there are both positives and negatives with alternate uses. Before entering into an alternate use, it is important to seek the assistance of legal counsel or other professionals.

Oil and Gas Leases

An oil and gas lease on farmland is a legal agreement between the landowner and an oil and gas company that grants the company the right to explore for and extract oil and gas from the land. These leases are common in areas where there is potential for oil and gas production, and they provide a way for landowners to benefit financially from the resources beneath their land. Typically, the landowner will receive a percentage of the royalties from the sale of the oil and gas. The landowner's share of the royalties is usually 12-20%. Depending on the oil and gas reserves beneath the farmland, oil gas leases can be quite lucrative.

Oil and gas leases are not without their dangers to the landowner.   Depending upon the type of well, the area used to drill for and extract the oil and gas may never again be suitable for farm use. This area may be relatively small or may include many acres. Additionally, wells will usually need access roads and tank batteries to collect the oil. This infrastructure can cause significant, permanent changes to the farmland and takes some of it out of agricultural production.

Most oil and gas leases continue for as long as oil or gas is being produced on the land. So, an oil and gas lease may be active for many years – sometimes for several decades. Due to the potential lengthy nature of an oil and gas lease, it is important to make sure the lease is fair and minimizes the long-term impacts on the farmland.

Renewable Energy Leases

Wind and solar leases have become increasingly popular alternative uses for farmland, providing landowners with additional revenue streams. Similar to oil and gas leases, these agreements involve an energy company leasing the right to install wind turbines or solar panels on the property. The following are a few key factors to consider when contemplating a wind or solar lease:

- Surface Area Usage: Wind and solar installations require significant surface area. Wind turbines are typically spaced far apart, allowing agricultural use between them, while solar panels can cover large contiguous sections of the farm, potentially reducing the available land for traditional farming activities.
- Long-Term Commitment: Wind and solar leases are generally long-term agreements, often spanning 20 to 50 years. This long duration necessitates careful consideration and negotiation to ensure the lease terms are favorable and sustainable over the lease period.
- Financial Benefits: These leases can be financially beneficial, providing steady, long-term income through lease payments, which can be more predictable than the fluctuating royalties from oil and gas production. Payments are usually structured as annual rent.
- Legal and Expert Consultation: Engaging with an attorney and other experts familiar with wind and solar leases is advisable. They can help navigate complex lease terms, address potential pitfalls, and maximize the lease's financial benefits while minimizing its detriments.

Wind and solar leases offer valuable opportunities for farmland owners to diversify their income. However, the long-term nature of these agreements and their impact on land use require careful negotiation and expert guidance to ensure that the benefits are maximized and any negative impacts are mitigated. For more information on solar leases, see the *Farmland Owner's Guide to Solar Leasing* available at farmoffice.osu.edu. While this publication focuses only on solar, many of the concepts also apply to wind leases.

How to Obtain an Alternative Use Lease

Generally, the energy company will initiate contact with landowners to express their interest in leasing the land. However, landowners can also proactively reach out to energy companies to gauge their interest in leasing the property. One effective approach is to identify other properties in the area that are already under energy leases and contact the companies holding those leases. Most leases, or a memorandum of lease, will be recorded with the county recorder and available for public review. Companies with existing operations nearby may be more inclined to expand their activities to include your farmland.

Key Points

- 🛢️ Beyond traditional agriculture, farmland can be leased for oil, gas, solar, or wind energy production.
- 🌞 Leasing land for wind turbines or solar panels is increasingly popular, providing landowners with steady, diversified income streams.
- ⏳ Energy leases usually last for many years, potentially decades, as long as production remains economical.
- ⚖️ Due to their longevity, it's critical to negotiate energy lease agreements carefully to limit negative long-term impacts.
- 📚 Engaging legal counsel or professional advisors is essential for negotiating favorable and protective lease terms.
- $ Alternative uses can generate considerable income for your farmland.

Chapter 8. Controlling and Protecting the Future Your Farm

Even if you don't live on your farm or actively engage in its daily operations, you may still care deeply about preserving its legacy, maintaining control over its future use, and keeping it in your family for generations to come. Fortunately, several effective strategies exist to help ensure your farmland remains protected, aligns with your vision, and can be passed down to future generations. Let's explore these strategies.

Agricultural and Conservation Easements

An agricultural or conservation easement is a legal agreement between a landowner and a qualified organization, like a land trust or government agency, that restricts how the land can be used in the future. It's essentially a voluntary way to permanently limit development on the property. Agricultural and conservation easements are powerful tool for landowners who want to keep their land in farm production while also protecting its natural and agricultural value for the future. Here's how they work:

- Landowner forfeits development rights: The landowner agrees to maintain the land for farming or conservation and forfeits the right to develop the land for non-agricultural or non-conservation purposes.
- Development restrictions: The easement agreement specifies what activities are no longer allowed on the land. This typically prohibits activities like subdividing the land and any non-agricultural development, like shopping centers.
- Oversight and enforcement. A qualified organization ensures the land remains in agricultural or conservation use and is not developed for other purposes.
- Landowner retains ownership: The landowner keeps the property and can continue using it for agriculture. The landowner can sell it or pass it on to heirs, but the easement restrictions remain binding on future landowners.

Let's explore an example scenario of the use of an agricultural easement.

> *Sam inherited his family's farm. The farm has been in Sam's family for many generations. Even though Sam and his family are no longer farmers, it is very important to Sam that the farm remain as farmland. Even if his family someday does not own the farmland, Sam wants to be sure the farm is never developed into houses or shopping malls.*
>
> *Sam donates an agricultural easement for his farm to the local land trust. The perpetual easement states that the land will remain in agriculture and non-agricultural development is prohibited on the land. Any future owners of the land, whether family members or not, will be bound to this limitation of development on the farm.*

The example illustrates how Sam is able to prevent his farm from being developed in the future, even if neither he nor his family no longer owns the farm.

Financial Considerations

There are financial benefits to establishing an agricultural or conservation easement. A landowner can be paid for entering into an agricultural easement through programs like the Ohio Department of Agriculture's Local Agricultural Easement Purchase Program (LAEPP). Programs like LAEPP are a great way for a landowner to both protect the farmland and receive compensation for agreeing to keep the land in agriculture. However, easement purchase programs tend to be very popular and highly competitive, and available funds are dependent upon public funding. If interested, research organizations in your state or area that may have easement purchase programs.

If an easement purchase program is not an option, an easement can be donated to a land trust or similar organization. The donation is eligible for a charitable donation and can be a federal income tax deduction for the landowner. Be sure to consult with a tax professional familiar with agricultural easements to determine the potential tax savings with an agricultural easement donation.

Deed Restrictions

A deed restriction, also known as a restrictive covenant, is a provision in a deed that limits how the property can be used. These restrictions are legally binding and are written into the deed or included in the property records. They run with the land, meaning they apply to all future owners of the property. A deed restriction is usually specific to a certain use or purpose whereas an agricultural easement tends to be broader.

Consider the following example:

> *Susan agrees to sell her farm to Sarah. Next to the farm is a landfill. The landfill has always wanted to buy Susan's farm for expansion. The idea of her farm being turned into a landfill is very distasteful to Susan. As part of their negotiations with Sarah, Susan includes a deed restriction that prevents any future owners of the farm from using the property for a landfill or similar uses.*

In this example, the deed restriction will prevent the farm from being turned into a landfill. The deed restriction is narrowly focused on the landfill use issue and does not prevent the farm from being used for other purposes. If a future owner of the farm attempted to convert the farm into a landfill, Susan or her family could take legal action to prevent the conversion.

Disadvantages of Easements and Deed Restrictions

There are two primary disadvantages to using easements or deed restrictions to protect the agricultural nature of your land. First, they could depress the value of the land. Part of the value of farmland is its potential for development. Eliminating the development potential will thus decease its value. The extent of the decrease in price varies greatly from one farm to the next. A farm located just outside of town will see a more dramatic impact on its value from a conservation easement or deed restriction than a farm located in a remote area.

The second disadvantage is the permanent nature of these methods, particularly the easement. Once the easement is established, it should be expected to never be removed. Placing an easement or deed restriction on your property not only affects how you can use the property but also affects all future owners. An easement put on farmland today could prevent family members 100 years from now from selling the farm for a small fortune.

While agricultural easements and deed restrictions offer a powerful tool for safeguarding farmland, the decision isn't without trade-offs. The potential decrease in land value, particularly for farms near development, needs careful consideration. Additionally, the permanent nature of these restrictions can limit the options of future landowners. Ultimately, weighing the long-term benefits of preserving agricultural land against the potential drawbacks is crucial. Consulting with tax professionals and easement programs can help you determine if this path aligns with your goals for the land and its legacy.

Shared Ownership of Farmland – A Threat to Future Ownership

It's common for multiple individuals to own farmland together, a scenario that brings advantages and challenges. Most commonly, joint ownership is the result of siblings inheriting farmland from parents. While joint ownership isn't inherently problematic, it introduces complexities to farmland management and can complicate efforts to maintain ownership within the family over time. The following are two challenges associated with shared ownership: partition and ownership across generations.

Partition

Partition involves the legal division of property among co-owners, typically occurring when disagreements arise regarding its use or management. Essentially, it's a legal recourse used when co-owners cannot reach agreement on the property's ownership or management. In such cases, one co-owner may petition the court to either sell the farmland and distribute the sale proceeds among the owners or physically divide the farm, granting each co-owner a smaller portion.

Though partition is a harsh measure, it's often the only available legal remedy. Many states lack specific laws to resolve disputes among co-owners, leaving partition as the default solution. Importantly, any co-owner listed on the deed can initiate partition, even if they own only a small percentage of the land. Consider the following example:

> *Andy, Barbara and Chris inherited a farm from their parents. The three siblings are not able to agree on how to own and manage the farm. Andy and Barbara wish to keep the land and lease it to a neighbor while Chris wants to sell the land. Chris files a partition action and the court sells the land and divides the sale proceeds among the three siblings.*

In this example, state law does not provide a mechanism for the three siblings to resolve their issues. Instead, state law provides a method to sell the farm and divide the proceeds. Even though Chris is only a one-third owner, and the other two owners do not want to sell, partition allows Chris to force the sale of the land.

Future Ownership

Over time, the number of co-owners of family farmland tends to increase with each successive generation. As ownership fragments, so too can the potential for disputes and disagreements regarding land use and ownership rights. With more owners involved, the likelihood of partition and the eventual sale of the farmland out of the family also rises. For example, if Andy, Barbara and Chris continued to own the farm and each had three children, eventually there would be nine owners of the farm. The more owners, the more potential problems.

The Role of an LLC

To mitigate partition issues and challenges stemming from multiple owners, establishing a Limited Liability Company (LLC) or similar entity for the farm can be advantageous.[21] An LLC circumvents partition by requiring at least a majority vote of its members for any sale of the land, ensuring that no individual owner can unilaterally force its sale.

Moreover, LLCs offer a structured framework for current and future owners alike. They establish clear management protocols, voting procedures, and guidelines for owners' entry and exit. By transferring ownership through an LLC, families can facilitate smoother transitions across generations and better protect the integrity of their farmland. Let's continue the prior example:

> *Before passing away, Andy, Barbara and Chris' parents put their farm in an LLC. They were aware that Chris would want to sell the farm, but they did not want the farm sold unless all their children agreed. By putting the farm in an LLC, the farm can only be sold if all three children agree. The LLC extinguished Chris' partition rights and thus he cannot force the sale of the land.*

If it is a goal for multiple owners to keep the farmland in the family for future generations, an LLC should be considered. For further insights into shared ownership of farmland, partition, and other strategies for maintaining family ownership, refer to the "Keeping Farmland in the Family" publication, available at farmoffice.osu.edu. This publication discusses the risks that divorce, debt and partition have on keeping farmland in the family and provides several strategies for overcoming these challenges.

Key Points

- Agricultural and Conservation Easements permanently restrict farmland use, ensuring land preservation and preventing unwanted future development
- Easements can offer financial incentives through sale of development rights or charitable tax deductions when donated
- Shared farmland ownership can lead to disputes and forced sales through legal partition, risking the property's future within the family
- Conservation easements usually reduce farmland value by limiting future development potential.
- Establishing an LLC for farmland ownership can mitigate partition risks, simplify generational transfers, and protect family land from individual liabilities

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[21] Some states do not allow LLCs and corporations to own farmland. A limited partnership can be used instead with similar benefits. Be sure to consult with local legal counsel before establishing a business entity for your farmland.

Chapter 9. Protecting Your Farmland from Risk

Your farmland is a very valuable asset that you will want to protect from liability issues. While farmland is a relatively low-risk asset to own, there is liability potential from the tenant's activities and visitors to the property. There are several methods that can be used to help insulate the farmland from liability exposure.

Insurance

Insurance is essential to safeguard your farmland. One of the first steps after acquiring your farmland should be to secure an insurance policy. Insurance policies are complex, often exceeding 100 pages with numerous exceptions and intricate terms. Work with an insurance agent who is knowledgeable about farm insurance to ensure your farm is adequately covered. If your current insurance agent is not experienced with insuring farmland, seek out an agent who specializes in farm insurance to ensure proper coverage.

Liability Insurance

There are three primary types of insurance that should be included in your farm policy. The first is liability insurance, which covers legal defense costs and any settlements or judgments resulting from claims or lawsuits related to the farm. Farmland is a relatively low liability asset to own but it is still a good idea to have liability insurance.

The amount of liability insurance needed can vary, so it's important to discuss your specific situation with your insurance agent to determine appropriate coverage. Generally, liability insurance is relatively inexpensive, so it's advisable to purchase more coverage than you think you might need, if your budget allows.

Property Insurance

Property insurance compensates the owner when property is damaged or lost due to certain perils like fire, wind, and tornadoes. If your farm is just bare land, property insurance may not be as crucial since the likelihood of damage or loss is lower. However, if your farm includes buildings, bins, or other improvements, property insurance is important. For instance, if a grain bin is destroyed by a tornado, the insurance policy will cover the replacement cost or actual value of the bin. Without property insurance, the replacement cost would be paid out-of-pocket.

Environmental Insurance

Many farming operations use fertilizers and pesticides, which can pose significant liability risks in the event of a spill. For example, if a tenant's mobile fertilizer tank overturns and spills fertilizer onto your farm or into a nearby waterway, there can be liability to government entities and neighbors. Even if the tenant is responsible for the spill, the landowner can get caught up in the incident simply by owning the land. Consider adding environmental coverage to your insurance policy to protect from environmental perils like fertilizer and pesticide contamination.

Additional Information

Your insurance agent can help you determine the appropriate type and level of insurance needed. Work closely with your agent to ensure your farm is adequately protected. For additional information on farm insurance, see the *Farm Insurance: Covering Your Assets* bulletin, available at farmoffice.osu.edu.

Business Entities

As mentioned previously, a business entity can be a great way for multiple owners to own farmland. Business entities can also provide liability protection. An entity such as a corporation or LLC protects the owners of the entity from the liability created by the entity. Furthermore, the entity can protect the business and business assets from the liability of the owners. Consider the following examples:

> *Susan, Sam and Sophia own a farm together and decide to put their farm in an LLC.*
>
> 1. *Sam has had financial difficulties. He was recently successfully sued and has a judgment against him for $200,000.*
> 2. *The LLC has been sued by a motorist who was injured when the tenant was leaving the farm and collided with the motorist traveling on the adjacent road.*

In the first scenario, Sam's liability is unlikely to jeopardize the family farm. The party to whom the $200,000 is owed likely cannot force the farm to be sold to be paid. The owed party can only attach to Sam's distributions from the LLC and take that income towards its payment.[22] Without the LLC, Sam's creditors could likely force a foreclosure of the farm in order to be paid.

[22] Analysis based on Ohio law. A creditor of an LLC owner is only entitled to that owner's share of profits. The creditor cannot force the sale of the assets in the LLC or dissolution of the LLC to be paid.

In the second example, if the injured motorist is successful in their lawsuit against the LLC, none of the owners will be personally liable. None of the owners' personal assets outside of the LLC will be at risk due to the activities of the LLC. Without the LLC, the owners' home, personal financial accounts and other assets could be at risk to the lawsuit.

For more information on business entities related to farmland ownership, see the following publications available at farmoffice.osu.edu:

A Comparison of Business Entities Available to Ohio Farmers
Tax Characteristics of Business Entities Available to Ohio Farmers
Using Business Entities to Manage Farm Liability Risk
Starting, Organizing, and Managing an LLC for a Farm Business

Hold Harmless and Indemnification Clause in Lease

Leases often include a hold harmless and indemnification provision. An example hold harmless and indemnity clause in a lease may be as follows:

> *Tenant shall defend, indemnify, and hold Landowner harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with Tenant's activities on the Farm.*

The hold harmless and indemnification clause in a lease serves to allocate responsibility for potential liabilities between the landowner and the tenant. These clauses are particularly important with energy leases where the potential for liability incidents are higher. Here's what the clause does:

- Defend: It requires the tenant to provide a legal defense for the landowner if a third party brings a claim or lawsuit related to the tenant's activities on the farm. This means that if someone sues the landowner because of something the tenant did on the property, the tenant is obligated to cover the legal expenses associated with defending against that claim.
- Indemnify: The clause obligates the tenant to indemnify the landowner for any losses, damages, or expenses incurred as a result of the tenant's actions on the farm. This means that if the landowner suffers any financial losses, such as paying damages to a third party or covering costs associated with a lawsuit, due to the tenant's activities, the tenant is responsible for reimbursing the landowner for those expenses.
- Hold Harmless: This part of the clause ensures that the tenant will hold the landowner harmless from any liability arising from the tenant's actions on the farm. Essentially, it means that the tenant agrees not to hold the landowner

The hold harmless and indemnification clause provides the landowner with protection against legal and financial liabilities that may arise from the tenant's activities on the farm. It shifts the burden of responsibility for such liabilities to the tenant, helping to safeguard the landowner's interests and assets. When negotiating a lease with the tenant, try to include a hold harmless and indemnify clause for liability protection. This relatively simple clause can relieve you of considerably liability exposure.

Key Points

⚖️ Liability Insurance covers legal costs and settlements from claims or lawsuits related to the farm.

💪 Work with a Farm Insurance Specialist to ensure comprehensive coverage for your farm.

🏢 LLCs and corporations shield owners from personal liability and protect farmland from owners' personal debts.

📝 Include Hold Harmless & Indemnification clauses in farm leases to shift liability from the landowner to the tenant for damages caused by tenant.

Chapter 10. Soil Health and Land Stewardship

The focus of this publication is mostly on the legal and financial aspects of owning farmland but a short discussion on soil health and stewardship is warranted. Soil health plays a critical role in land productivity, lease value, and long-term sustainability. Whether you plan to lease or sell your land, understanding and implementing good land stewardship practices can help maintain or even increase its value.

Why Soil Health Matters

Healthy soil is the foundation of productive farmland. Good soil management ensures:

- Higher crop yields – Nutrient-rich soil leads to better plant growth.
- Increased value – Well-managed farmland is attractive to buyers and tenants.
- Reduced erosion and water loss – Protects against soil degradation and environmental damage.
- Improved resilience to drought and flooding – Healthy soil retains moisture and nutrients more effectively.

If your land has been neglected or overused, taking steps to restore soil health can significantly improve its agricultural potential.

Soil Testing

Before making any decisions about your land, consider conducting a soil test through your local agricultural extension office or a private lab. Soil tests provide critical information about:

- Nutrient levels (nitrogen, phosphorus, potassium, etc.).
- pH balance and potential need for lime applications.
- Organic matter content.

Using the test results, you or your tenant can apply the appropriate fertilizers or soil amendments to improve soil fertility while avoiding over-application that could harm the environment.

Getting Expert Help

Soil health and land stewardship are important for your farm but you may not have experience with these issues. Fortunately, you don't have to navigate these challenges alone. A variety of experts can help you make informed choices that maximize your land's productivity and value. Two of the most valuable resources for farmland owners are certified crop advisors and extension educators.

Certified Crop Advisor (CCA): Professional Advisor for Farmland Management

CERTIFIED CROP ADVISER

What is a CCA?

CCA's provide professional advice on soil health, crop selection, pest control, and farm management. They work with both landowners and farmers to improve crop yields while maintaining sustainability. CCA's receive training and are certified through the Certified Crop Advisor Program, provided by the American Society of Agronomy.

How Can a CCA Help?

A crop advisor can assist you with:

- Soil testing and fertility management – Analyzing soil health and recommending appropriate fertilizers or soil amendments.
- Crop selection and rotation planning – Helping you choose crops and crop rotations suited to your soil type, climate, and market conditions.
- Weed, insect, and disease management – Identifying problems early and recommending cost-effective, environmentally friendly solutions.
- Conservation practices – Advising on cover crops, no-till farming, and conservation programs to protect soil and water resources.
- Protect soil health in a lease – Helping to ensure that tenants are maintaining soil health and using best management practices.

A CCA can be used a little or a lot. For example, perhaps you just need help with soil samples and understanding the current nutrient fertility of your soil. A CCA can help. Or perhaps you want to learn what conservation practices would be most beneficial to your farm and incorporate those practices into your lease. A CCA can help with that too. CCA's are skilled and knowledgeable professionals that can be of great assistance to you.

Where to Find a CCA

- Independent crop consulting firms – Search for certified consultants through organizations such as the American Society of Agronomy at agronomy.org or the National Alliance of Independent Crop Consultants at naicc.org.
- Agricultural retailers and cooperatives – Many farm supply companies offer agronomy services to farmland owners.
- University Extension – Most land-grant universities have Extension educators who are also CCAs. Extension educators are discussed more below.

Extension Educators: Free, Research-Based Guidance for Landowners

What is an Extension Educator?

Extension educators, sometimes called county agents, are experts affiliated with land-grant universities and the extension system. Their mission is to provide science-based agricultural education and support to farmers, landowners, and communities.

How Can an Extension Educator Help?

- Soil testing services – Many extension systems offer soil testing or can direct you to private labs. You should expect to pay for soil tests but the cost is usually reasonable and a good investment for your farm.
- Workshops and field days – Learn about farmland leasing, crop management, conservation programs, and other land management topics through in-person or online educational events.
- Custom farm plans – Get help developing a plan for land management, crop rotation, or conservation practices.
- Access to research and publications – Stay informed with university-backed studies and best practices.

Where to Find an Extension Educator

Most counties have an extension office with agricultural specialists available to answer questions. A quick internet search will likely provide you with the location and contact information for the extension office in your county. Also, your state land grant university will also have a listing of extension offices across the state.

Extension educators provide unbiased, research-based information, usually at no cost. They are an excellent first step for new farmland owners who want to learn more about managing their land.

Government Agencies

Farmland owners can benefit from services offered by government agencies specializing in land stewardship, conservation programs, and financial assistance. Three key agencies can provide expert help are Soil and Water Conservation Districts (SWCD), Farm Service Agency (FSA), and Natural Resources Conservation Service (NRCS).

SWCD

SWCDs are local government entities that provide technical assistance and education on soil and water conservation practices. They work closely with landowners to promote responsible land management and stewardship.

SWCD provides the following services:

- Conservation planning – Developing site-specific conservation plans for erosion control, water management, and soil health improvement.
- Cost-share programs – Administering financial assistance programs that help landowners implement conservation practices.
- Technical assistance – Providing advice on cover crops, buffer strips, and other soil conservation practices.
- Educational programs – Offering workshops, field days, and publications on conservation topics.

Contact your local SWCD to learn more about available services and programs.

FSA

FSA, part of USDA, administers farm loan programs, disaster assistance, and conservation programs that help landowners and farmers manage risk and improve land stewardship.

FSA Provides the following programs:

- Conservation Reserve Program (CRP) – Provides financial incentives to set aside environmentally sensitive land for conservation purposes.
- Loan programs – Offers loans for farmland purchases, operating expenses, and conservation projects.
- Disaster assistance – Provides financial relief for crop losses and natural disasters.
- Information on federal farm programs – Helping landowners navigate various USDA programs.

FSA offices are located in most counties.

NRCS

The NRCS is a federal agency under the USDA that provides technical assistance and funding for conservation practices that improve soil health, water quality, and wildlife habitat. NRCS offices are usually co-located with FSA offices in USDA Service Centers.

NRCS provides the following programs:

- Conservation planning – Developing customized conservation plans for your farm.
- Cost-share programs – Providing financial assistance for conservation practices such as cover crops, erosion control, and nutrient management.
- Soil surveys – Offering detailed soil maps and data to help guide land management decisions.
- Wetlands and wildlife habitat programs – Assisting with the restoration and protection of natural habitats.

By working with these agencies, farmland owners can access valuable technical expertise, financial assistance, and conservation programs that improve both the productivity and sustainability of their land. If you have questions about conservation practices on your farm or seek assistance with adding conservation projects to your farm, these agencies can be a very valuable resource.

Key Points

Importance of Soil Health

- Healthy soil boosts crop yields and enhances land value.

Soil Testing

- Soil tests reveal nutrient levels, pH balance, and organic matter content.

Certified Crop Advisors (CCA)

- Provide expert advice on soil health and crop selection

Extension Educators

- Offer free, research-based guidance on soil health and land management.
- Provide soil testing services and educational workshops and seminars.

Soil and Water Conservation Districts (SWCD)

- Develop conservation plans and offer technical assistance.

Farm Service Agency (FSA)

- Administers the Conservation Reserve Program (CRP).
- Provides farm loans and disaster assistance.

Natural Resources Conservation Service (NRCS)

- Offers conservation planning and cost-share programs.

Chapter 11. Conclusion

Owning farmland is both an opportunity and a responsibility. Whether you inherited land, purchased it as an investment, or simply want to explore its potential, understanding your options is key to making informed decisions. This guide has provided an overview of farmland ownership, covering valuation, leasing, selling, taxation, business structures, risk management, and alternative land uses.

Key takeaways for new landowners include:

- Assess Your Goals: Determine whether you want to keep, lease, or sell the land based on your financial needs, level of involvement, and long-term vision.
- Understand Your Land's Value: Use appraisals, market data, and professional consultations to get an accurate estimate of your farmland's worth.
- Consider Leasing vs. Selling: Leasing can provide steady income while retaining ownership, while selling offers liquidity but means giving up control.
- Plan for Taxes and Legal Structures: Work with professionals to navigate tax liabilities, estate planning, and ownership structures like LLCs to protect your land.
- Explore Alternative Uses: Renewable energy, conservation easements, and business development can provide additional income opportunities.
- Protect Your Investment: Proper insurance, legal agreements, and land stewardship practices will help ensure your farmland remains productive and valuable.

Farmland is a unique and valuable asset, and with the right knowledge, you can maximize its potential while preserving its legacy. By carefully evaluating your options and seeking professional guidance when needed, you can make the best decision for yourself and future generations.