

**THE ESSENCE OF LEASE AS ECONOMIC CATEGORY**

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Стаття отримана редакцією 23.05.2019 р.

The article was received by editorial board on 23.05.2019

**Formulation of the problem.** Among the many problems that need to be solved in our country the development and improvement of lease relations are extremely important. The lease relations promote the restoration of fixed assets, allow to raise the level of extensive and intensive use of property, combine the manufacturer with the necessary means of production, improve the conditions for the development of entrepreneurship. With the external similarity of property and legal relations, lease and other types of hiring have a different economic essence. There are terminological differences, inconsistencies in legislation, unreasonable identification of certain types of the recruitment.

**Analysis of recent researches.** Problems of the formation, implementation and improvement of lease relations are studied by economists, lawyers, among them are L.M. Bratchuk [1], S.P. Yanitska [16], I.V. Koshkalda [9], L. M. Didenko [6], A. Buianov [2] "Ya.B. Usenko [15, 14], M.H. Haidai [3], other domestic and foreign scientists. These researches suggest that many issues remain unresolved. The success and the development of lease relations to a large extent depend on the correct concept of their content, specific features and practical application.

**The purpose of the article** is to study the economic essence of the lease in the context of property relations, to substantiate the conclusions about the expediency of using the concepts of "hiring", "leasing", "hire" when concluding lease agreements.

**Main part.** The term "lease" was at one time borrowed from the Polish language (agesia), which in turn came from medieval Latin (aggebbag – to provide the hire). It is necessary to note that in the works by well-known Ukrainian lawyers O. Ohonovskyi, S. Dnistrianskyi [5], who laid the first bricks in the formation of Ukrainian civilization, and in the quoted work by M. Hrushevskyi [4] the term "lease" is used through the letter "a" (*аренда*, in modern Ukrainian *оредна* – the lease). In pre-revolutionary legal guides, the lease was deciphered with the help of an even older term "hire". In life and legal literature of Russia during this period used the terms "rent", "lease", and "maintenance" for the purpose of determining the employer, but they, as Professor Shershenevych noted, they had no independent legal significance.

According to documents the lease has been known to man since ancient times. The history of lease relations is more than 4 thousand years. It is rich and diverse, as well as the history of mankind itself.

The disclosure of the essence of the lease relations originates from the distant times of Aristotle (384/383 – 322 BC). It belongs to him often quoted not only in foreign, but also in the national literature, the name of one of the treatises in "Rhetoric": "Wealth is not in possession of property, but in the use of it."

According to historians P. Baltas and B. Maiger, in economic relations lease agreements were known in the ancient state of Sumer and dated from about 2000 BC Thus, clay tablets found in Sumerian city only in 1984 contain information about temple landlord priests who leased farm implements, land, water sources, oxen and other livestock to local farmers. However, the ancient documents do not limit the sphere of rental practice of the state of Sumer and do not exclude that the lease existed in more ancient times, although so far we have not received information on this [2].

The archives of the Vatican contain bookkeeping books that certify Vatican calculations (1279–1280 years) and the papal court (1590–1604) with tenants, which again confirms the existence of lease relations and well-established accounting for that period [1].

The level and variety of lease-related relationships in all centuries was the higher, and depend on the more freedom the members of society had, and the higher the degree of social progress.

In Russia leases were developing at a less intense pace, but elements of lease relations took place in its history.

The history of active using lease in the development of the economy begins from the period of implementation of the new economic policy. A characteristic feature of the lease relations of the early 20s was a natural rent, and from stabilization of the exchange rate, since 1923 a monetary form was introduced. Since the leasing companies were worn on average by 50–60%, so the state, as the owner of enterprises, was interested in carrying out the capital repairs by the tenant, therefore, the lease term was allowed up to 12 years.

The lease has had a positive impact on the development of economic methods of management. However, since 1928, the lease was began to curtail because it did not "fit" into the activity of the command and control system of the economy, in which the alienation of the worker from the means of production took place, there was a state of deprivation and equalization, the type of the boy, and not the owner, began to be formed. In practice of management it is appeared increased using an in-house rental.

The renewal of public life begun in the mid 80s, opened a new page in the history of lease relations. Restoration of the rights of lease together with other forms of management was directed to overcome the separation of man from property.

A brake on the spread of new economic relations was the unresolved legal and other issues. In order to bring the legislative basis for new economic relations it was adopted in 1989 by the Supreme Council of the USSR, the Fundamentals of the Law "On Lease", which marked the beginning of the second stage of the development of lease relations [8].

After receiving the independence of Ukraine in 1991, it has been begun the creation of the actual Ukrainian legislation on the lease. The main legislative act was the Law of Ukraine "On the lease of property of state enterprises and organizations", adopted on April 10, 1992. From this date, we are also counting the time of Ukrainian lease.

Quite often scientists [8, 12, 13] considered the lease as a way of implementation property relations, manifested in the division of rights: possession, use, disposal. Therefore, when covering the essence of lease relations, it is expedient to investigate the lease in the context of property relations.

In modern economic literature property was defined as the main industrial relations, then as the initial, then as a set of industrial or economic relations. Also, the view of property as a legal one is widespread category, disclosed through ownership, disposal, use. In particular, we read in the economic dictionary by O.O. Yushkevych, Y.S. Zavatskyi: "property is an economic category that reflects the right to own, dispose and use property belonging to one or more individuals." The same opinion is shared by other authors. V.E. Kolomoitsev [7]. B.A. Raizberg, L.Sh. Lozovskyi, Ye.B. Starodubtseva, L.P. Kurakov and V.L. Kurakova [11], as well as V.S. Kryvtsov and V.M. Berezhnyi [10].

It should be noted that ownership and labor are interconnected, since they never happen to be isolated and individualized. Ownership is good, achieved by labor. And if the Marx' postulate "labor created a man" to recognize as an indisputable truth, then it should also be recognized that labor is, first of all, the desire of man to purchase property.

Ownership is not just property, not property and not a thing, but a form of social relations conditioned by the origin and economic content of the means of production and means of reproduction of the workforce, the environment. These relationships are manifested in an indivisible triad:

- 1) the subject of ownership, that is, someone who owns something
- 2) the object of ownership, that is, the property that someone owns
- 3) this is the right of the first element of the triad in relation to the second.

With regard to the characteristics of property relations in the lease, then among specialists there is no consensus as to which of the ownership, use and disposal rights pass from owner to tenant. The common opinion is that the tenant gets the right to use the leased property, which is fixed in the current leasing legislation.

Investigating this question Polozhii V.M. and Chyzhov L.P. [13] expressed the view that the lease is a "process of exchange of a part of the right to own a property, namely the right to use and order the equivalent of its value, the amount of remuneration in cash or in kind."

Maintaining the position, we believe that the appropriation of means of production as objects of ownership is carried out by the lessor, and appropriation of the same objects as objects of management is carried out by the lessee. Separation of property rights and management does not violate the membership of

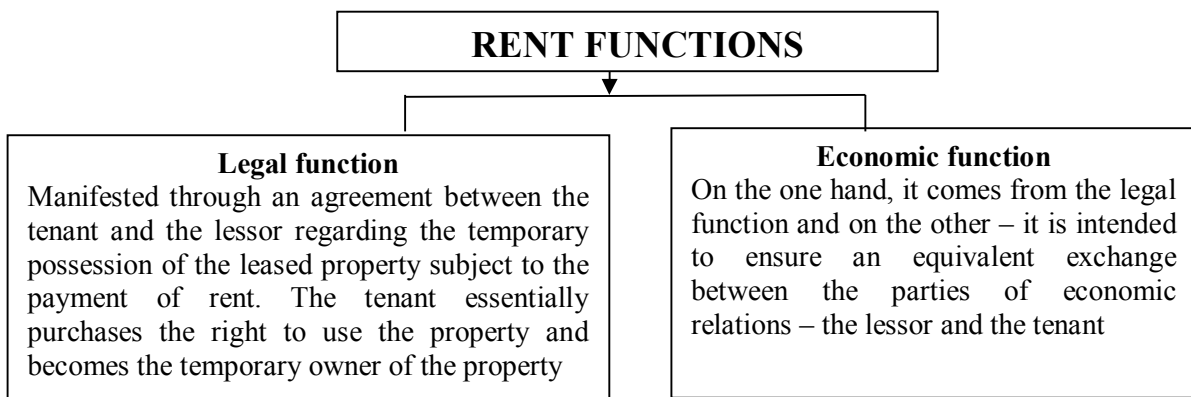
certain objects to the sovereign owner. He remains their owner, but at the time of the lease, the owner transfers the right of management directly to the producer – the tenant. Under such conditions the tenant assigns ownership of the ownership, possession, use. In this sense, rent can not be considered and only as a form of realization of property, but also as a form of management, the main principles of which are: contractual relations between the subjects of appropriation, economic and legal autonomy of tenants, the right of assignment by economic agents of production and income.

The foregoing allows us to separate and substantiate the functions of lease relations as an economic category, which are manifested together, the essence of which is presented in Fig. 1

|               |  |
|---------------|--|
| LEGAL         | The lessor, transferring the object to the lease, within the limits of the lease, transfers its right to own and use the tenant.   |
| ECONOMIC      | Lease relations are designed to provide an equivalent exchange of results of social labor, the introduction of complete economic calculation in the "landlord-tenant" link, at the same time. to ensure the reproduction of material goods (in production, distribution, exchange, consumption).                                 |
| SOCIAL        | Effective management on the basis of lease relations allows at the expense of income not only to reproduce fixed assets, to pay contributions to social funds to provide social protection, but also to participate directly in the implementation of social programs for the development of the city at the expense of profits. |
| ORGANIZING    | Independently carries out the organization of own business, economic activity based on their economic opportunities, desires and abilities.  |
| PSYCHOLOGICAL | Displays the presence of a sense of the owner of the tenant, the attitude to the leased manna as his own   |
| OWNERSHIP     | The lessee independently, under the property responsibility, leases the property for realization at his own risk of economic activity, which is aimed at the systematic receipt of income, profits from the use of property  |

**Fig. 1. Functions of lease relations**

The main element of the lease relations as a form of realization of property should be considered a rent. In essence, it is the price at which the sells and the lessee buy the right to use the main means of production or reproduction of the workforce. At the same time, its size depends mainly on the economic level of ownership, that is, the price of this or that object we consider it expedient lease payment through legal and economic functions (Fig. 2).



**Fig. 2. Rented Functions**

The rent must allow the lessor to fully reimburse his lesser for the actual costs of acquiring or creating a means of production, to pay the obligatory payments, to create backup reserves of extended reproduction, to return to him standardized profit at a price during the normative period of exploitation. Only under such conditions, rent and rent functions will be fully realized, both legal and economic.

Now the concept of "lease" combines a large number of more specialized activities: hiring, leasing, hire, concession. Each of them has its own peculiarities in the present conditions.

The legislation of Ukraine and the laws of other countries (Russian, Polish), which at different times acted on Ukrainian lands, regulated the hiring relations in different ways, which, in turn, resulted in different use of the terms "hire" and "lease". In some cases, they were given independent value, in others they were used as synonyms terms. The current Ukrainian legislation does not distinguish between the term "hire" and "lease", since it is oriented towards solving practical problems. Moreover, to differentiate hiring and lease is not easy, since in the process of historical development the lease has lost its main classical signs. In view of this, in our opinion, the term "hire" should be used to define the types of operations foreseen, and the term "lease" should continue to be used as a synonym.

One of the varieties of property rentals is hire. Until recently, domestic legislation only deals with household hire. The Civil Code of Ukraine defines the hire as the provision of property for temporary use for a fee. This definition is no different from the definition of property leasing, which is understood as a lease. There are any restrictions on hiring a home. The research of the system of employment relations showed that the rent differs from the rental, first of all, the economic role of the hiring object. If the property is leased for rent, which is temporarily not used by the lessor, then the lease is a property that is specially designed for transfer to other persons [14].

Current issues for today are the delineation of the concepts of lease and leasing, which identification is most often performed. Thus, the Law of Ukraine "On Financial Leasing" applies exclusively the concept of "leasing", in P (C) BO 14 "Lease" only the term "lease" is used, and in the Law of Ukraine "On Enterprise Profit Tax" both terms for the purposes taxation identified. In the analysis of publications, there is a similar situation, but many authors in their scientific work distinguish a number of differences. The conducted studies and analysis of publications allowed to clearly articulating the common features and differences between lease and rent in Table 1.

Comparisons make it possible to indicate that the existing common features do not make these two forms of use of the property identical. The lease is a property lease in its pure form, while the lease belongs to the business operations with the elements of the property lease, as well as the purchase, sale, delivery, and credit. For leasing, its investment component is decisive. This leasing is fundamentally different from the lease.

Another direct of property of the use is a concession. Under the concession is traditionally understood as an agreement that the state concludes with a business entity

- for the operation of industrial enterprises, land plots, natural resources or enterprises created on the basis of such an agreement. In general, a concession is similar to a long-term lease, but it has significant differences, for example, it enables:

- to receive state or communal property for the period of 10 – 50 years (in case of lease of state property, the term is stipulated by the parties and, as a rule, does not exceed 3 years);

- to receive concessional working enterprises, including planned and unprofitable ones (lease allows to receive only integral property complexes);

- to receive in concession not only property, but also the right to conduct certain types of entrepreneurial activity, for example, the construction of a road, a residential building, housing and communal services, transport services, etc.

Rental regulation should be based on its economic essence. Therefore, the initial condition for the creation of an effective leasing management mechanism is its definition. The determination of the lease must give a general characteristic, cover the fundamental properties, the essential laws, reveal the abolition of signs and features.

| Attribute  | Lease  | Leasing   |
|--|--|---|
| The number of participants in the relationship<br>The number of participants in the relationship | a bilateral agreement between the lessor and the lessee  | as a rule, three are the lessor, the seller of the leased property and the lessee. In some cases it is possible and two – the lessor and the lessee (re-leasing)  |
| The subject of agreement   | may not be a consumer thing, which is determined by individual characteristics, except in cases where the laws impose a direct prohibition of the lease of things  | May not to be a consumer thing, which is determined by individual characteristics and spent according to the legislation to fixed assets. They can not be as the subject of leasing lands, only property complexes of enterprises and their separated the structure subdivisions.   |
| Objects  | They are created initially to meet the needs of its owner and only through a change of circumstances is transferred to the use of other persons; objects of lease are determined widely; at buying the object of lease it is created two agreements, operations are taxed.<br>objects of lease are defined more widely; when buying a lease object, two contracts are concluded, transactions are taxed at the VAT | purchased specifically to meet the existing needs of other participants in economic relations, that is, designed to perform the functions of the product; Leasing objects in the law are limited by fixed assets, while nothing is stipulated about integral property complexes. It is forbidden to transfer land leases and other natural objects to the lease; when purchasing objects in financial leasing the contract covers all stages of the relations of its participants. This leasing operation is exempt from VAT. |
| Terms of the action  | The Law of Ukraine "On the leasing of property of state-owned enterprises" does not stipulate the lease term.  | The law of Ukraine "On leasing" the term of the contract is determined depending on the period of depreciation and requirements for the proportion of compensation for the cost of the object.  |
| Variety of processes   | main types: lease, sublease  | The international practice of leasing has created dozens of its varieties that allow more flexible regulation of the relationship of participants. The Law of Ukraine "On Leasing" provides for a limited number of types of operations.  |
| <i>Type of relations</i>   | <i>property tenancy relations</i>  | relations of purchase-sale, property lease, supply, credit  |
| The right of property  | lessoraposs; property  | at the time of the conclusion of a financial lease agreement, as a rule, the property of the supplier of leased property, and in case of repeated leasing, the lessoraposs; ownership is always   |
| Liability  | is the lessor  | the seller is the subject of the lease if the seller chooses the lessee, and if the lessor has chosen the seller himself, then the jointly the seller of the property and the lessor  |
| The role of lessor   | the lessor acts as the owner of the object of the lease or as his representative   | the lessor invests in the leased asset and provides the lessee with the leased asset for use  |
| The role of tenant   | as a rule, he finds the object of lease himself and turns to the lessor – the owner or an authorized body  | as a rule, he himself finds the owner of the leased asset, chooses the type of property and the lessor. Not being formally a buyer, in fact, is endowed with a part of his rights and duties, he carries out procedures for the acceptance of property  |
| Essence of payments of tenant  | the rent is a payment for the right to use   | lease payments may consist of a gradual reimbursement of the costs of the lessor for the purchase of the leased asset, compensation of interest on the loan, compensation of other costs associated with the contract   |
| Factors of the effect on sizes of payment  | the market situation for the lease, and when leasing public and communal property – the rental rates and the cost of the object of lease   | the value of the leased asset, the term of the contract, the rate of depreciation, in the case when the lessor purchased the leased asset for the loan, – the rate of the loan  |
| Common traits  | are financial and economic operations; used for entrepreneurial activity; are of a contractual nature; their implementation requires investments: taxation of operations; condition of the contract is the presence of the object; The urgent need to use means is a prerequisite  |   |

Concerning the interpretation of the "lease", then analyzing the definitions of the various authors, we came to the conclusion that the reason for the existence of different interpretations is the lack of study and different approaches of scientists and practitioners to the definition of the essence of the lease, imperfect practical regulation of leasing activities by regulatory acts.

Therefore, some authors define the lease as a form of entrepreneurial activity, others associate the lease with the property relationship, the third is considered as a form of management. Most economists identify a lease with a contract.

The rental definition is quite commonly known as "property hire. The conducted studies of the essence and nature of the lease made it possible to formulate the actual definition of the lease. Thus, the lease is one of the forms of economic relations between economic entities, on the basis of the contract, and represents the process of exchange of a part of the right of ownership of the property, namely the right of use and disposal for the equivalent of its value, the amount of rent.

Based on the researches conducted, it was found out that there is a significant difference between the concepts of "leasing", "lease", "rental", "concession." We share the position of those economists who believe that the economic essence of the lease should be understood as property relations through special a system of management that exists as an economic phenomenon. In our opinion, the complete assimilation of the economic mechanism of lease relations and bringing the concept of lease to unambiguous interpretation will ensure proper use of it in practice and will help to improve the lease relations in the country.

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УДК 657.239

**Лебедик Галина Вікторівна**, кандидат економічних наук, доцент. Полтавський національний технічний університет імені Юрія Кондратюка. **Рященко Вікторія**, доктор економічних наук, доцент. Університет ISMA, Латвія. **Сутність оренди як економічної категорії**. Серед багатьох проблем, які необхідно розв'язати в нашій країні, надзвичайно актуальною є розвиток і вдосконалення орендних відносин. Вони сприяють відтворенню основних фондів, дають змогу підняти рівень екстенсивного та інтенсивного використання майна, поєднати виробника з необхідними йому засобами виробництва, поліпшити умови розвитку підприємництва. При зовнішній подібності майново-правових відносин оренда й інші види найму мають різну економічну сутність. Наявні термінологічні розбіжності, неузгодженість законодавства, безпідставне ототожнення окремих видів найму. Рівень і різноманітність орендних взаємовідносин у всі часи були

тим вищими, чим більше свободи мали члени суспільства, чим вищим був ступінь соціального прогресу. Оренду розглядали як спосіб реалізації відносин власності, що проявлялися у розмежуванні прав володіння, користування, розпорядження. У результаті розгляду сутності орендних відносин у контексті відносин власності з'ясовано, що вони проявляються нероздільною тріадою:

- 1) суб'єкт власності, тобто той, хто чимось володіє;
- 2) об'єкт власності, тобто те надбання, що комусь належить;
- 3) це право першого елемента тріади стосовно другого.

У процесі оренди привласнення засобів виробництва як об'єктів власності здійснює орендодавець, а привласнення цих же об'єктів як об'єктів господарювання здійснює орендар. Розділення прав власності й господарювання не порушує належності тих чи інших об'єктів суверенному власникові. Він залишається їх власником, але на час дії орендного договору власник передає право господарювання безпосередньо виробнику – орендарові. За таких умов останній привласнює об'єкти власності на правах володіння, розпорядження, користування. У такому розумінні оренду можна розглядати не тільки як форму реалізації власності, але і як форму господарювання, основними принципами якої виступають: договірні відносини між суб'єктами привласнення, економічна та правова самостійність орендарів, право присвоювання суб'єктами продукції господарювання й доходу. Основним елементом орендних відносин як форми реалізації власності слід вважати орендну плату. По суті це ціна, за якою орендодавець продає, а орендар купує право користування основними засобами виробництва чи відтворення робочої сили. При цьому її розмір залежить головним чином від економічного рівня власності, тобто від ціни на той чи інший об'єкт. Вважаємо за доцільне орендну плату реалізувати через правову та економічну функції. Орендна плата повинна дозволити повністю за нормативний період експлуатації відшкодувати орендодавцеві його фактичні затрати на придбання чи створення засобу виробництва, сплатити обов'язкові платежі, створити резервні фонди розширеного відтворення, повернути йому закладений у ціні нормативний прибуток. Тільки за таких умов будуть повністю реалізовані функції орендної плати як правова, так і економічна. Нині поняття «оренда» об'єднує велику кількість більш спеціалізованих видів діяльності: найм, лізинг, прокат, концесія. Кожний з них має в умовах сьогодення свої специфічні особливості. Регулювання оренди повинно здійснюватися виходячи з її економічної сутності. Тому вихідною умовою створення дієвого механізму управління орендою є її визначення. Визначення оренди повинне давати загальну характеристику, охоплювати фундаментальні властивості, істотні закономірності, розкривати відмінні ознаки й особливості.

**Ключові слова:** оренда, лізинг, найм, концесія, контракт.

UDC 657.1:339.54

**Lebedyk Halina**, PhD (Economic Sciences), Poltava National Technical Yuri Kondratyuk University. **Riashchenko Viktoria**, D.Sc. (Economics), Associate Professor. ISMA University, Latvia. **The Essence of Lease as Economic Category.** Economic nature and essence of lease is elucidated in the article, socio-economic preconditions of its development are considered in the system of relations of property. Problem questions of using of such concepts as "leasing", "employment", "hire" at entering into contracts are investigated.

**Key words:** lease, hire, leasing, concession, contract.

UDC 657.1:339.54

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**Ключевые слова:** аренда, лизинг, наём, концессия, контракт.