

# On the Equipment Trust

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## Introduction

Equipment trust is a financing method of the equipment purchase of the industrial firms, applying the trust relation as its legal form.

This report is made to disclose the facts and problems of the trustee business rendered nowadays by the trust bank.

### 1. Its Function and Purpose

This trust is settled by the fabricant (or its dealer) of the equipment for the purpose of its lease to the user firm. The trust bank, as its trustee, holds the title of the equipment, issues the trust certificate to the settler of the trust, receives the rental and transfers its title to the user firm at the termination of the trust.

During the trust, the settlor, the fabricant (or its dealer), can sell the trust, certificate to some institutional investors, regaining the cost and making the profit of the production.

The tax-accounting of this trust, as authorized by the tax agency, regards the lessee as the complete owner of the equipment, imposing the property-tax while allowing the depreciation on the lessee's account.

The true purpose of this trust, therefore, can be said to be the financing of the equipment purchase through the intermediary of the trustee bank, who acts also as the legal holder of the equipment for the benefit of the investors.

### 2. Contents of the Contract

The trust contract consists of the three parts; the "Fundamental Agreement" between the fabricant, the trust bank, and the equipment user, the final buyer of the equipment; the "Trust Agreement" between the fabricant and the trust bank; the "Lease Agreement" between the trust bank and the equipment user.

The "Fundamental Agreement" is contracted before the commencement of the production, and confirms the parties' consensus on the application of this trust, and the acceptance of the accompanying liabilities by the parties.

The "Trust Agreement" stipulates the leasing of the trusted equipment, the issuance of the trust certificate by the trustee to the settlor, its negotiability under the consent of the trustee, the period of the trust, the final purchase of the equipment by the lessee, and the conditions under which the contract may be pre-matured and the lessee's obligation to the immediate purchase of the equipment. The conditions include "the occurrence of the default by the lessee company."

The "Lease Agreement" fixes the leasing rental amount and its calculation formulae, the liability of the lessee as to the property-tax, the repairment costs, and the management costs including insurance premium. It also stipulates the conditions of the dealings in the case of the lessee's default; the price of the compulsory purchase, and the trustee's various powers to secure the repayment from the lessee for the unpaid sum of the financing liabilities.

There are some variations of the above-depicted standard form of this trust, resulting from its actual needs of the relevant parties.

### 3. Current Business Situations

As of the end of March 1977, the outstanding balance of the trust is 447 billion Yen, which divides into 296 billion Yen of movables and 151 billion Yen of immovables.

The contents of the movables are rolling stocks, ships, helicopters, trucks and buses, medical equipments, computers, printing and constructing machines, and bureau and factory equipments etc. The immovables are office buildings, shops, factories, warehouses, gas-stands, hospitals etc.

The trust certificate issued to the settlor in negotiable form as aforesaid, is almost entirely transferred to the institutional investors, the largest part of which is occupied by the private pension funds holding about 330 billion Yen of the trust certificate as of the end of March 1977.

We can say that the development achieved today on this trust is supported largely

by the existence of the private pension funds which prefer this trust certificate as the best investment of their funds on the technical reasons.

#### 4. Equipment Trust in U. S.

The prototype of our equipment trust is the so-called "Philadelphia Plan" of the car-trust in the United States. The main difference between the two, is the marketability of the trust certificate as a security approved by SEC in the U.S..