

Reorganization of Corporate Pension and Pension Trust

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In the phase of the reorganization of the corporate pension system that seems to be going to be activated in addition in the future, the conflicts between employers and the employees, between present employees and retired employees (qualified pension beneficiaries) would often arise. This report analyzes the relation between the problem of such a conflict of interest and the pension trust.

First of all, it is understood that it does not depend on the rule of the general trust method general based on the mutual agreement of a settlor and a beneficiary, but the authority the settlor has under the condition of agreement of the labor-management consultation. That is, the decision making of the termination of the pension trust has been entrusted to the result of the labor-management consultation that is entirely a scheme outside the pension trust. However, it is necessary to fill the requirement for the labor law for the disadvantage change besides the labor-management consultation to be approved for the entrepreneur to execute the reorganization of the corporate pension system, and to terminate the pension trust. Moreover, there is room for the doubt in the relation to the recipient who does not agree to the termination of the corporate pension system whether the termination of pension trust is effective.

In addition, the trustee doing the paperwork to terminate pension trust while the condition for the reorganization of the corporate pension system is not fixed, may cause the violation of the attention obligation to the beneficiary. However, it is not the one to assume the responsibility of

the validity of the reorganization of the corporate pension system that becomes the assumption of the termination of pension trust of both parties of the entrepreneur and the trustee as long as the precondition of the termination of trust for the reorganization of the corporate pension system has been fulfilled.

As mentioned above, it is considered that the mechanism to adjust the conflict of interest between related persons concerned will be constructed by an original decision making rule's that centers on the labor-management consultation being installed, and imposing obligation also on the trustee in the phase of the termination of pension trust according to the corporate pension system reorganization. However, it is thought that the protection of the right to receive pension benefit protection in the corporate pension system will become more important in the future, and the diversification of sense of values of the employee etc. to the corporate pension advances. In such a situation, it is thought that it is important to construct the scheme that the subscriber and the qualified pension beneficiary can participate in the decision making about the ideal way of the corporate pension system in each standpoint, and to protect the person who receives the disadvantage along with the system reorganization enough.

In the bill to revise the Trust Law, various rules to which the case of two or more beneficiaries is required are scheduled. Especially, it is thought that beneficiary meeting and beneficiary deputy's systems etc. and rules of the beneficiary right acquisition claim etc. can be used for the interests adjustment on the corporate pension system reorganization in the future. It is important to use such a rule positively so that reorganization and the termination of pension trust of the corporate pension system are smoothly executed in relating about the entrepreneur and the recipient.