Pensions (1949)

Why a TRUSTEE for PENSIONS?

OUR ORGANIZATION is particularly suited to serve as trustee of pension trusts. The experience we have gained in this highly specialized field can be of great value to the employer in choosing the right kind of a plan, and in administering the trust after it has been established.

If we can explain our services in more detail, write or telephone our Pension Trust Section. Or, if convenient, drop in to see us.

WORTHY OF YOUR TRUST

OLD COLONY TRUST COMPANY

ONE FEDERAL STREET • BOSTON

Allied with THE FIRST NATIONAL BANK *of* BOSTON

Why a Trustee

for

PENSIONS?

MOST EMPLOYERS know that, under a modern pension system, the money to pay for pensions is set aside while the employees are performing their services. By the time a worker retires, the cost of his pension has usually been met.

The results of such an arrangement are clearly advantageous. The employer systematically provides for the retirement of his employees and is entitled to immediate income tax deductions for whatever money he sets aside. The employees are assured that they can retire on pensions at a reasonable age—but they are not taxed for their pensions until they do retire.

So much for the results. But where does a trustee enter into the picture? How are the trustee's services helpful in obtaining these results?

Probably the easiest way to answer these questions is to examine the operation of a "trusteed" plan. Here is a brief outline:

How does the employer know how much to set aside for pensions?

The amount is determined actuarially each year, and depends on the age and sex of the employees, their compensation, and the amount of the benefits which the employer has promised them in the plan.

How often does the employer contribute?

Once a year, normally.

When the employer "sets aside" money for pensions, does he merely put it in a reserve account on his books?

No, he deposits the money with a trustee. In order for the employer to enjoy the tax advantages of a plan approved by the Internal Revenue Bureau, he must segregate the funds in such a way that they are no longer under his control. Putting them in the hands of a trustee fulfills this requirement.

What are the tax advantages of an approved pension plan?

The amounts set aside by the employer for pensions are a deductible expense for the employer. Yet the employee pays no tax on these contributions until he actually receives his pension.

Who chooses the trustee?

The employer.

What does the trustee do with the funds entrusted to him?

Eventually, of course, the funds are used to pay pensions. Meanwhile, the trustee puts the money to work by investing it in securities. As income is received on these securities, it too is invested by the trustee, to the extent it is not needed immediately for pension payments.

Is the income of the trust ever taxable?

It is not. Whether the income is in the form of dividends, interest, or gains on securities, it is not subject to Massachusetts or Federal taxes, either to the trust or to the employer.

Can the employer exercise any control over the investments of the trust without losing the tax deduction privileges?

He can. The employer enters into a trust agreement with the trustee as part of his pension plan. In that agreement he specifies the degree of control, if any, he wishes to exercise. He might, for example, provide that the trustee could make no changes in investments except on the direction of the employer. Or he might provide that the trustee should exercise its own discretion as to investments within certain limits, such as by purchasing only securities which are "legals" for savings banks or insurance companies. Or he might provide that the trustee should have entire discretion as to investments, in which case the trustee would be under no restriction except the "prudent man" rule* that applies generally to trustees in Massachusetts.

Which type of investment provision is the best?

It is for the employer to decide. An employer should select only a trustee in whom he has complete confidence. Under such circumstances, we believe that there are advantages for the employer in permitting the trustee to operate under the "prudent man" rule, because it permits a flexible investment program without loss of conservatism.

*Rugg, C. J., in *Springfield Safe Deposit & Trust Company v. First Unitarian Society*, 293 Mass. 480 (1936): "The principle of law in this Commonwealth governing the conduct of a trustee in making investments has been established for more than a century. A trustee is required to conduct himself faithfully and to exercise a sound discretion, and to be enlightened by observance as to how men of prudence, discretion and intelligence manage their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of the capital. Good faith and sound discretion, informed by experience and wise observation, constitute the standard. That standard is comprehensive and remains fixed. It is not bound to particular classifications of securities, but continues as a safe guide under changed financial institutions and business customs, usages and investment combinations."

What functions does the trustee perform?

The actual operations performed by a trustee may be grouped in four categories:

(1) INVESTMENT ADMINISTRATION

(2) INVESTMENT MANAGEMENT

(3) SAFEKEEPING OF ASSETS

(4) ACCOUNTING AND REPORTS

In each category the number of operations is very large, requiring, for proper performance, the maintenance of an experienced and efficient organization. Rather than list all of these operations in detail, it may be sufficient simply to take one of the four categories and outline the primary activities involved. In investment administration, for example, the trustee —

(*a*) *completely segregates the assets of the trust from the assets of other trusts and accounts that it administers;*

(*b*) *submits periodically to examination by auditors of various State and Federal agencies;*

(*c*) *provides a complete audit and control system of its own;*

(*d*) *buys, sells, and exchanges securities, and handles the cash involved in such transactions;*

(*e*) *collects dividends and interest;*

(*f*) *watches for and collects called and matured bonds;*

(*g*) *files tax information when necessary;*
(*h*) *maintains bookkeeping records;*
(*i*) *handles correspondence and inquiries from employer and pensioners;*

. . . and so on. Each of these operations, in turn, involves several subsidiary activities.

Must the trustee be a bank or trust company?

Not necessarily. But it usually is.

Why is a bank or trust company usually selected?

The operational functions of the trustee, mentioned above, require a large and experienced organization for their most economical and efficient performance. In addition, there are other important ways in which a bank or trust company is particularly suited to provide maximum service to an employer:

PERMANENCE

A pension trust will usually continue in existence far beyond the life of one individual or group of individuals. For this reason, the continuity of service assured by the use of a bank or trust company as trustee deserves particular emphasis.

INVESTMENT EXPERIENCE

The successful investment of the funds contributed by the employer is an important factor in the economy and success of the plan. The *primary* business of a corporate trustee is the investment and care of the funds entrusted to it. A well established institution of this type maintains, in many instances, a large organization devoted solely to investment research, and the experience which it has gained over many years of caring for and investing funds should be of great value to the employer.

IMPARTIALITY

When a bank or trust company serves as trustee of a pension plan, it can be relied on to act impartially in all matters. It protects the employer and employee alike.

Can the employer ever get back any of the money he has put into a pension trust?

Only if it turns out that, through an error, the employer has deposited more than is needed to meet pension requirements. Basically, the employees' pensions come first.

If the employer revises his whole pension plan, or even discontinues it entirely, can he reduce or discontinue the payments to the trust?

Yes. If the Bureau of Internal Revenue gives its approval of a curtailment or termination of the plan, the deposits from then on will be affected accordingly. A pension trust is a "revocable" trust, and it can always be altered to conform to the plan of which it is a part.

The Trustee Is Important to the Success of a Plan.

Through the efficient operation of its administrative functions, and also through experience which it may have gained in the pension field, a corporate trustee can do much to assure the successful operation of a pension plan. In addition, through its investment experience, its permanence, and its impartiality, it provides services which will be of value both to employer and employee.

Old Colony Trust Company *is New England's largest corporate fiduciary. It is engaged solely in fiduciary work. It has for many years specialized in the investment of corporate and individual funds and in their efficient and economical administration.*

Standard Services Rendered by

OLD COLONY
TRUST COMPANY

Trustee under living trusts and wills
Investment Management (with Custodianship)
Investment Consultation
Real Estate and Mortgage Management
Custodianship of property
Executor under wills
Administrator of estates
Agent for executors, administrators, trustees, guardians, conservators
Guardian of the property of others, including minor children
Conservator of the property of incapacitated persons
***Trustee** under pension and profit sharing plans
Trustee under individual and business insurance trusts

Transfer Agent for the stock of corporations
Registrar for the stock of corporations
Trustee for bond issues
Fiscal Agent to pay bonds and coupons of corporations and municipalities
Agent to pay dividends on stock of corporations
Depositary in connection with capital readjustments
Escrow Agent

**This booklet relates to the services rendered by Old Colony Trust Company as Trustee under Pension and Profit Sharing Plans. Information regarding the other services will be furnished upon request.*