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1. 1 Loss of company pension scheme for managing directors in the event of insolvency?

Loss of company pension scheme for managing directors in the event of insolvency

The **company pension scheme** has increasingly become the focus of public interest in recent years due to changes and adjustments in pension policy. Politicians are increasingly shifting the issue of pensions into the personal responsibility of employees and employers, which usually leaves them uninformed and at the mercy of **cunning insurance brokers** and **shrewd credit institutions**. At this point we would like to refrain once again from mentioning the well-known **disadvantages of the various occupational pension schemes** in terms of their profitability, and refer you to our article on "the company pension scheme" for further information on this subject. Rather, in the following article we would like to point out the **most common pitfalls and problems in company pension schemes** of **managing directors** and **shareholder-managing directors**.

Our many years of experience show that the topic of **company pension schemes** is treated with extreme neglect in most companies and **groups**. When choosing the **suitable occupational pension model** and selecting a suitable provider, management blindly trusts the insurance brokers they know, without being aware of the possible consequences for their own pension or that of their employees. The fact that this topic can even mean the **decline of an entire company** is often insufficiently clear to the employed managing director and shareholder-managing director. True to the motto **"it will be fine"**, many of those responsible temporarily avoid the issue, because in most cases wrong decisions only become apparent many years after the contracts were signed. We have repeatedly encountered the following cases among our clients in recent years and would like to draw your attention explicitly to the problem.

Reduction of benefits by the pension institution

Unfortunately, we have to note that in recent years **approx. 30% of pension funds have reduced their benefits**, and the trend is rising. The consequences for **employers and entrepreneurs**, not only for their own pension, can be devastating. Much to the regret of those responsible, the difference in benefits, based on the **companies' statutory obligation to pay**, must be compensated from the company's capital. If the company has not built up sufficient reserves or does not have sufficient capital, this obligation can lead to the **insolvency of the entire company**. We know from experience that most companies **turn a blind eye** to this liability risk and have usually not covered their obligations to employees in a solid way.

Insolvency of one's own company and the loss of the bAV

There are many constellations that can lead to an **insolvency of a company**, and those responsible are not always partly to blame. Tragic enough when a company is on the brink of collapse – but how do things stand regarding the **security of the concluded company pension contracts**?
Time and again in the past we have had to witness how, after a company bankruptcy, **managing directors and managing partners** were not only faced with the shattered state of their own company, but were also confronted with the painful reality that **concluded contracts for pension commitments** are not safe from the insolvency administrator. A **judgement of the Federal Supreme Court** (BGH judgement of 18 July 2013, case no. IX ZR 219/11) even expressly allows the **insolvency administrator to access the assets of the GmbH** to reinsure the pension scheme. Here, too, there are ways to take action in advance and ensure solid **security for your own pension**. Speak to us with pleasure!

Loss of the company pension due to bankruptcy of the occupational pension scheme's provider

Yes, you have read correctly: not only can your own company suddenly be faced with the end of its existence, but the provider of your company pension scheme can also mean the total **loss of your company pension scheme** in the event of bankruptcy. In principle, it should be noted that this scenario has already frequently occurred in the past, and that even **seemingly large carriers/providers** of occupational pension products have been affected. In our overview below of the various bAV models, you will find out which models offer no protection in the event of the provider's bankruptcy.

Company pension scheme for managing directors and shareholder-managing directors: overview of models

Fundamentally, the **models/options** for an **occupational pension scheme for managing directors** do not differ from the models available to regular employees. However, we would like to point out that **pension funds and direct insurance** do not contribute to the **PSVaG (Pensions-Sicherungs-Verein)**, and therefore no protection is available in the event of **insolvency**. Below, for a better overview and classification, you will find **the models of the bAV:**

- Support fund
- Direct insurance
- Pension fund
- Pension funds
- Pension commitment / direct commitment

Our services for managing directors and companies

We offer you comprehensive solutions and advice on all aspects of **company pension schemes**, **contract rescission**, and **insolvency law and recourse**. We also work across systems and in an interdisciplinary manner for our clients.
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Helpful further articles on the subject of company pension schemes for managing directors:

- bAV: How to optimize taxes and social security contributions
- Outsourcing, compensation or elimination of the company pension scheme (bAV)
- Reversal, revocation and enforcement in the case of occupational pension schemes (bAV)
- Managing directors and senior executives give away the insolvency protection of their pension scheme

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