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Development Of The Legislative System Of Non-State Pension Provision In The Republic Of Uzbekistan

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ABSTRACT

This article highlights the world experience of developed countries in non-state pension provision, also the way of development of the legislative system of non-state pension provision, forms and methods of organizing and implementing of pension provision in the Republic of Uzbekistan. As well as the essence of new forms and means of social protection of the population and given suggestions for improving legislative system of pension provision.

KEYWORDS

Non-state pension system, pension, social protection, social assistance, accumulative pension fund, accumulative pension provision, pension fund.

INTRODUCTION

In the conditions of market relations, as a result of the aggravation of social competition and the implementation of the principle «everything for oneself», there are limited

opportunities for some citizens by age or health status, that leads to a deterioration in their financial situation and a decrease in living standards. These factors require the search for

new forms and means of social protection of the population in this regard it becomes necessary to study this issue, using the world experience of developed countries as an example. Accumulative pension provision of citizens, introduced in the Republic of Uzbekistan since January 1, 2005, can be taken into account as one of such forms of pension provision. On December 2, 2004, the Oliy Majlis of the Republic of Uzbekistan adopted the law «On accumulative pension provision of citizens», which entered into force on

January 1, 2005 [1].

METHODS

Accumulative pension provision of citizens is widely used in world practice as one of the demonstrations of social protection, and in most cases it gives its positive effect. To date, it is worth noting that in a number of countries entering into the Commonwealth of Independent States, accumulative pension provision is established and efficiently functioning. However, the forms and methods of organizing and implementing this pension provision in different countries are different, and this issue will depend on the political situation in the country, the political and legal activity of society and, of course, on the economic situation of the state and society. In order to further ensure the protection of the population, it is necessary to emphasize their involvement in this process.

RESULTS AND DISCUSSIONS

As noted above, accumulative pension provision according to its form and method, although it has a different appearance in the national legislative systems of different countries in terms of its managerial or other characteristics, according to its original

essence, citizens receive that part of their income which they accumulate while they are young, economically active and able to work, for the future in case of social risk (old age, disability, etc.) as assistance.

Citizens can organize their work in different ways, accumulating and spending a part of the income they receive. This task is carried out by state or public bodies with different legal status in different states. For example, in article 1 of the Law of the Republic of Kazakhstan «On Pension Provision in the Republic of Kazakhstan» dated June 21, 2013 №105-V (provided for in the new edition by the Law of the Republic of Kazakhstan dated 02.01.2021 №399-VI (shall be enforced from 01.05.2021)) it says that «voluntary pension contributions are money contributed by contributors on their initiative to a unified accumulative pension fund and (or) a voluntary accumulative pension fund in favor of the recipient of pension payments in accordance with the procedure determined by the legislation of the Republic of Kazakhstan and the agreement on pension provision at the expense of voluntary pension contributions». In addition, the Law establishes that an accumulative pension fund is a legal entity carrying out activities to attract pension contributions and pension payments, and, where applicable, transferring funds from that savings account to recipients.

The legislation of the Russian Federation also provides for the Federal Law dated 07.05.1998 № 75-FL (as amended on 30.12.2020) «On non-state pension funds», which defines the implementation of pension provision, additional accumulation to state pensions from the account of voluntary contributions of legal and physical entities [2].

In accordance with article 2 of this Law, the Non-State Pension Fund is a non-commercial social security organization and its field of activity is:

- Activities carried out in accordance with the agreements of the fund participants in the field of non-fixed pension provision;
- Performing the functions of an insurer for compulsory pension insurance;
- Participation as a professional insurer in accordance with federal legislation and agreements on the professional pension system.

This law also provides for voluntary participation in the activities of a non-state pension fund.

The purpose of the Law [3] of the Republic of Uzbekistan «On accumulative pension provision of citizens» dated December 2, 2004 is also to provide citizens with material resources in addition to social security issued from state pension provision systems when a certain social right is established on the basis of substantive accumulation of funds.

The above-mentioned Law, adopted in Uzbekistan, has certain peculiar features.

As such in the Law of the Republic of Uzbekistan «On accumulative pension provision of citizens» the following features can be indicated:

- 1) compulsory and voluntary payment of contributions to the accumulative pension fund, that is, the condition about a compulsory payment in some cases, and in other cases, that payments made by some persons are voluntary (for example, by individual entrepreneurs, farm enterprises);

- 2) money resources are collected not only in a special accumulative pension fund, but also in the institutions of the Xalq Bank, while payments are also made through this bank;
- 3) the accumulative pension fund is completely individualized and a special settlement account is opened for each payer;
- 4) investing accumulative pension funds into sectors of the economy;
- 5) contributions to the accumulative pension fund do not have a negative impact on the payer's earning. Despite the fact that contributions are paid by each employee from his or her monthly salary, this payment does not have a negative impact on his or her earning (decrease in income), since the amount paid for the accumulated pension provision is paid from the account of the income tax withheld from the employee (on the account of tax cuts);
- 6) account owners can dispose of the accumulated money resources for pension provision after the emergence of the right to receive state pensions;

However, we consider that the amount (size) of pension contributions collected from employees for accumulative pension provision is insignificant.

Currently, the relationship between the fund and its payers consists of civil - legal relations, and physical and legal entities paying the fee form a mutual covenant with the institutions of the Xalq Bank - an agreement. This agreement essentially consists of a postponed transaction, the condition of which is the condition of regular payment of contributions by physical and legal entities who are account holders provided for by law and determined by what happened in the future (life situations: old age,

disability, loss of a breadwinner) upon its occurrence, aimed at ensuring their additional material resources.

It should be noted that the law «On accumulative pension provision of citizens» does not reflect the civil nature of this type of pension and emphasizes that this is a public law relationship. For this reason, the parties (mutual rights and obligations, responsibility of payers and institutions of the Xalq Bank) have a one-sided nature.

Since the task is to build a state regulated by law and order and civil society, its main goal is to build a developed state, a society which is not inferior in its characteristics to developed countries in order to ensure high living conditions for the citizens of the Republic of Uzbekistan. It is unambiguous that it consists in creating an opportunity for the full realization of one's physical potential. In the process of building a civil society, the gradual transfer of state functions to non-state structures should be considered as a necessary stage of an integral part of the development of Uzbekistan.

Citizens receiving pension payments (account owner, or his or her heirs, legal representatives, etc.), enterprises and organizations, carrying out the payment of contributions, institutions of the Xalq Bank take part in the accumulative pension provision system. The legal status of each of them is determined by legislation.

Accounting for citizens participating in the accumulative pension system is compulsorily carried out in accordance with the application of the employer in the branch of the Xalq Bank according to the main place of work of these citizens.

Accounting for citizens participating in the accumulative pension system on a voluntary basis is carried out in accordance with their application in the branch of the Xalq Bank according to the place of residence of the indicated citizens.

The need for non-state pension funds is based on two criteria:

Firstly, market relations and democracy, in addition to giving citizens more freedom and more access to the state authority, also impose on them a great responsibility for a comfortable life, including a social one. Every citizen should seriously approach the issues of social protection of himself or herself in case of disability;

Secondly, there is a limit to the financial capabilities of any state, no matter how developed and economic potential it has. The state determines the level of social protection of citizens based on its capabilities. The state is unable to provide those in need with a standard of living above average.

In the formation of market relations, these two factors certainly affect the social security system as the ratio between the public and private sectors of the economy changes. For the above-mentioned two main reasons, it becomes necessary to create a non-state pension system in the Republic.

Reform in the social sphere requires, first of all, a new legal framework which meets the requirements of market relations. It is necessary to distinguish between state and non-state concepts of the social security system on the basis of legislation, to determine what should be understood in the context of these concepts. In this regard, it is necessary to

develop and adopt laws which will include the following:

- The Law «On non-compulsory social insurance», which should determine the list of non-compulsory social systems, their rights and responsibilities, their interaction and relationship with the state;
- The Law «On Non-State Pension Funds», which should determine the procedure for the formation and functioning of non-state pension funds, their responsibility to the state and society, relations with the participants in these funds.

CONCLUSION

Taking into account the socio-economic changes in the republic, it is necessary to strengthen the legislative base and create conditions for additional social protection in old age. In order to ensure full social protection of citizens in the future, it is advisable to create private pension funds, pension funds which are not run by Xalq Bank, which are also accumulative in the presence of large companies or other banks, and to provide them with legal opportunities for receiving a wide range of social assistance.

This is also envisaged by the Concept of reforming the pension system in the Republic of Uzbekistan. The concept defines the goals, objectives of the implementation of state policy and the main directions of long-term development in the sphere of the pension provision system in particular:

- Implementation of measures to ensure social justice of the pension provision system;
- Development of an optimal pension formula, strengthening the relationship between the size of the pension and paid

social taxes to the off-budget Pension Fund under the Ministry of Finance of the Republic of Uzbekistan, encouraging the continued participation of citizens in the pension insurance system;

- To increase interest in paying social taxes by switching to a three-tier pension system;
- Achieving a balance between receipts and expenditures of the state pension system;
- Improving the institution of the accumulative component of the pension system;
- Contactless assignment of pensions by increasing the efficiency of information and communication technologies in the system of state pension provision of citizens.

It is for this purpose that explanatory measures in the sphere of pension provision should be carried out in the mass media, short-term readings should be organized for responsible persons working in this field. To do this, it is necessary to consider and introduce simplified rules for drawing up contracts, which would clearly and intelligibly define the purpose of non-state pension provision.

REFERENCES

1. Law of the Republic of Uzbekistan dated December 2, 2004 «On the accumulative pension provision of citizens» Collection of documents of the Law of the Republic of Uzbekistan. 2001, № 51, article 512;
2. [www.OECD.org](http://www.oecd.org) (© 2018 Organization for Economic Cooperation and Development).
3. Law of the Republic of Uzbekistan dated December 2, 2004 «On the accumulative pension provision of citizens» Collection of documents of the Law of the Republic of Uzbekistan. 2001, № 51, article 512;

4. Tax Code of the Republic of Uzbekistan. National database of legislation of the Republic of Uzbekistan;
5. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated May 12, 1994 № 250 «On approval of the list of industries, institutions, jobs, professions, job positions and indicators which give the right to retire on preferential terms». National database of legislation of the Republic of Uzbekistan;
6. Mirziyoyev Sh.M. «A comprehensively developed generation is the basis for a great future, the creative work of the people is the basis for a prosperous life, friendship and cooperation are a guarantee of prosperity» www.xs.uz official website and «Xalq So'zi», December 8, 2018. 253 (7211);
7. Inoyatov A.A. and others. Law on the Social Security. - T.: Tashkent State Law Institute. 2002