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A study on the practical measures of the corporate crime investigation -Focusing on white color crime-

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Abstract

In this paper, I try to help the business operation so that they could continue the desirable operation despite the unfavorable conditions. It is important to reinforce for corporate growth various support measures to generate profits. However, if they are involved in criminal activities such as slush fund creation, they will have to deal with them separately. As a result, To raise awareness helps to keep the company running. Recently, the companies are in a poor condition due to overseas migration. If a company does not create profits by doing business, it is a burden to continue operating and it will eventually be hard to support and destroy. The corporate crime and white-collar crime are mostly similar types, mainly because they occur in the industry. The corporate crime proceeds throughout the company and ultimately translates into corporate profits. The white-collar crime, on the other hand, is a profitable part of the individual. In the process of generating profits, the purpose and management method of slush funds is an important issue in judging whether illegal immorality of business is intended or not. In addition, in the case of the corporate crime, it seems necessary to identify the types of slush fund raising activities in addition to the investigations of the accomplices and clinical investigations, and to apply efficient investigation methods on a case-by-case basis. At present, many companies frequently migrate overseas due to the influence of domestic regulations. In this process, if it is involved in crime such as a borrowing accounts or the purpose of slush fund creation should be treated separately.

Keywords: corporate crime, white collar crime, slush fund act, criminal investigation rule, survey of accomplices

1. Introduction

Recently, the problems of the insolvent companies causing the management crisis due to tax evasion or slush fund creation are serious. The corporate crime damages the unspecified majority, but it is the corporation itself that sees the biggest loss. I will diagnose the characteristics of these criminal phenomena and look at the practical plan of the investigation and its countermeasures. In relation to white color, E. H. Sutherland first used the term 'white collar crime' in his speech to the 50th anniversary of the founding of the American Society of Sociology in 1939. He defines "a crime committed by a person with respect and high social status in the course of work".[1] The existing crime environment was mainly regarded as a departure from bad environment due to 'lack'.

But Sutherland points out the fact that crime is, rather, the result of "abuse" of wealth and power by the upper layer or organization with economic power. These deceitful acts, on the other hand, are large enough to be incomparable to the common crimes and the social impact will be greater. The crimes reported on mass media are limited to certain categories. It is mainly represented by traditional violent crimes, that is, sexual

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crimes such as murder, injury and assault, theft and robbery, and rape. In fact, the percentage of such crimes is only around 3%, but the percentage exposed to the media is far more than half. In connection with the judgment of the court, the part of the attention has lifted the warm-based judgment against it, and it seems to contribute to the resolution of judicial mistrust.

2. The Theoretical Consideration

2.1 Theoretical Considerations on White-collar Crime

In 1949 Professor Sutherland used the Theory of Differential Association to explain The white-collar crime. He saw The white collar crime as basically the same as the crime of the common lower class. He defined white-collar crimes as "criminal violations committed by those of the socio-economic class of the upper-class society in the course of his work activities." The white-collar crime is a broad term that encompasses many types of nonviolent criminal offenses involving fraud and illegal financial transactions.

2.2 Characteristics of the corporate crime and white-collar crime

In particular, the various economic crimes have occurred due to rapid changes in the economic environment. with taking this into consideration, It is a part that needs to be realized such as an increase of the fine. Thus, The white-collar crime violates the trust of economic activity and creates a disbelief. This reduces the morality and morale of the society, and eventually it brings up the phenomenon of social disorganization. The white-collar crimes are committed in a deliberate and highly covert way by utilizing their expertise. Thus, the rate of hidden crime belongs to the highest type.[2] In the case of the corporate crime, if the subordinate members who are directly involved are punished or only the corporation is punished, the fines imposed on the company will be appropriated to the company's financial resources.[3] The focus of criminal policy is that it is not regarded as a serious crime by the recognition of the general public. After all, the corporate crimes and white-collar crimes are subjects that can not be neglected due to the huge losses and other harms that affect many people and countries.

2.3 Efficiency of Investigation on The Corporate Crime and White-collar Crime

The corporate crime and white-collar crime are mostly similar because they occur primarily in the industry. The corporate crimes are committed throughout the company. This gives the benefit of investors and individuals in the senior position of the enterprise and ultimately translates into the benefit of the enterprise as a whole.

In actually, those who commit the corporate crime and ultimately benefit from rapid promotion or greater profits are employees or owners of the company.[4] Another point is that the white-collar crimes are for the benefit of individuals, and the corporate crimes are for the benefit of companies. For the efficiency of the investigation, in case of the corporate crime, it is necessary to examine the part of the crime investigation Chapter 5 seizure and search (Articles 108 ~ 134). In the case of a white-collar crime, the criminal investigation rules Chapter 4 arrest and detention (Articles 80 ~ 107) should be examined in detail. On the other hand, In spite of these efficiency measures, The corporate managers face an opportunity to demonstrate entrepreneurship, even at the risk of being followed by management activities. In such cases, the prosecution and the court judge that most of them are illegal or breach of duty. It is a management problem. This is the part that raises the need for caution in the investigation.

3. Slush fund creation and Implications

3.1. slush fund creation

In connection with whether the company can recognize the intent to illegally acquire embezzlement on the job by merely raising the slush fund, According to the preliminary observations, appraisers working at the appraisal corporation branch were kept for the purpose of the entertainment expenses. This is an example of convinced judgment that the act of making a part of the money as slush funds is an embezzlement in business.[5]

In addition, in the establishment of an embezzlement on the job, the intention of illegal immigration, which means a physician who disposes of the property of another person himself or herself in violation of the duties of business in order to make profit for himself or a third party. The slush funds of a corporation that are separated from the accounting by the operator or the manager of the corporation separately from the funds held in the account book of the corporation but the corporation that the corporation manages separately keep the composition. If it is clear that the act is not for the corporation but the actor has been done for the purpose of taking out the corporation's funds and taking it, it can be seen that the intention of illegal gain is realized by the slush fund act itself.[6]

3.2. The case of a business crime and breach of duty

In addition to the perception that one's own act violates the task subjectively for the establishment of a back-off crime in business, he must be aware that there is a risk of causing or causing damage to his property in order to establish a business crime. And, in order for an embezzlement to take place, there must be an illegal immigrant who means a physician who, in his or her own discretion, disposes of the property of the other person for the benefit of himself or a third party. The so-called slush fund which manages by the operator of the corporation and the manager separate from the accounting without writing it in the accounting book of the corporation and manages separately, If it is clear that it is not for the purpose of corporation but for the purpose of taking out the corporation's funds and putting it in for the purpose of imprisonment.[7] Meanwhile, the embezzlement of Article 355 Item 1 of the Criminal Code and the embezzlement of business of Article 356 shall be established by the person who holds the property of another person to embezzle or refuse to return the property. On the other hand, specific economic crime law violation crimes by misappropriation are those whose wealth of misappropriated wealth is over 500 million won, or over 5 billion won as part of the crime composition requirements, and based on their prices The punishment is also heavy. Therefore, the principle of the balance of justice between crime and punishment is to ensure that the principle of liability principle that punishment must be proportional to its responsibility based on liability is not impaired. Also, the fact that the value of misappropriated wealth does not exceed the lower limit for the application of the Specified Economic Crimes Act must be proved by the same rigorous evidence as other elements.[8]

3.3. Implications

The Corporate crime proceeds throughout the company. It benefits investors and individuals in the senior position of the enterprise and ultimately translates into profit for the enterprise. The difference is that white-collar crime benefits individuals, and The corporate crime benefits corporations. The Supreme Court has stated that the settlement of accounts for the creation of slush funds itself does not constitute an embezzlement on the job, but it is stipulated that embezzlement is possible because there is a possibility that an illegal immigrant will be recognized depending on the type of the purpose. The purpose and management method of slush funds is an important issue to judge whether illegal immigration is intended for business. In addition, in the case of the corporate crime, it seems necessary to identify the types of slush fund raising activities in addition to the investigations of the accomplices and clinical investigations, and to apply efficient investigation methods on a case-by-case basis. At present, many companies frequently migrate overseas due to the influence of domestic regulations and US customs policy. In this process, if it is involved in crime such as a borrowing accounts or the purpose of slush fund creation should be treated separately.

4. The Substantive Investigation measures

4.1 Investigation of slush fund creation act

The most companies are generating profits through sales activities. If a company does not create profits by doing business, it is a burden to continue operating and it will eventually be hard to support and destroy. Even if the representative director of a company does not acquire or consume slush fund (out-of-pocket money), there is a case that the constitution of embezzlement can meet the constitution of the misdemeanor just by act of making slush fund through account of account of name.

The purpose and management method of slush funds is an important issue to judge whether illegal immigration is intended for business. In this regard, it is necessary to refer to the precedent that denied illegitimate intent to engage in business embezzlement.[9] The Supreme Court has argued that the settlement of accounts for the purpose of creating slush funds is not an offense of business misconduct. However, depending on the type of the purpose of the grant, illegal immigrants may be accepted, and thus the embezzlement is established. The types related to how to make slush funds can be categorized into over costing of expenses, underestimation of revenue, accounting for rebate costs, issuing false receipts, and grabbing employee salaries. Therefore, it is necessary to provide proofs according to the usual composition, use purpose and management method.

4.2 Investigation of accomplices

In the case of the corporate crime, it is possible for the company's profits to be made by public employees such as senior employees. Here it is necessary to refer to Articles 63 and 64 of the Criminal Investigation Rule. It seems necessary to consider ways to use criminal investigation information. The criminal investigation information is to be used within the scope of criminal proceedings in the face of specific criminal charges. As an example, Wiretapping, Account tracking, Profiling technology, Crime analysis, On-site inspection, collection, analysis, and utilization of information necessary for investigations.[10] Article 63 (investigation of the accomplice) states that ① When investigating an accomplice, a police officer shall conduct a separate investigation on the principle of preventing concealment such as crime, and if necessary, may issue a separate newspaper. ② Police officers should pay attention to the time and method when they make a papers in the same way so that they do not get the pressure of the other side. In this way, the method of separation and face-to-face interrogation is described. In the investigation process of the accomplice, the necessity of the questionnaire is raised as disagreement of mutual facts(deviation of facts). For the methods of clinical investigation, refer to Articles 65, 66 and 67 of the Criminal Investigation Rule. Article 65(Clinical Investigation, etc.)

5. Conclusion

In order to prevent crime, it is necessary to clarify the social background in which it is carried out. Where crime fighters are overwhelmed by the power to deal with crime, crime prevention is ineffective. The giving control to those who are immersed in the offender's consciousness is ultimately the result of the absence of a criminal control force. The Substantial measures of the corporate crime investigation - Focused on. 1. Introduction 2. The Theoretical Consideration 3. The Main Cases and Implications 4. The Substantive Investigation measures 5. Conclusion - Examined in order. At present, many companies frequently migrate overseas due to the influence of domestic regulations and US customs policy. In this process, if it is involved in crime such as a borrowing accounts or the purpose of slush fund creation should be treated separately. In this respect, strict punishments should be made and the proportion of probation suspended should be reduced. It is also necessary to reduce unnecessary regulations, which should contribute to the reduction of the company's overseas transfer ills and the creation of corporate profits. The businessmen must demonstrate their entrepreneurial spirit by taking the risk that they must follow their business activities. In these investigations, it is necessary to refer to the Criminal Investigation Rule (Ordinance No. 669, '12 .7.16). The white - collar crimes such as corporations are also often carried out in concert with public officials. It is therefore essential to establish the ethics of public officials. And The various economic criminal laws should be amended to clarify the limitations of illegal and lawful laws and to improve the ambiguous regulations. In order to prevent corporate crime in the future, it is necessary to smooth the business by reducing regulations and create systems. The focus of criminal policy is that it is not regarded as a serious crime by the recognition of the general public. After all, the corporate crimes and white-collar crimes are subjects that can not be neglected due to the huge losses and other harms that affect many people and countries.

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