

99066002058004, 99066002058004

Insolvency proceedings Implementation of estate insolvency proceedings

Heruntergeladen am 28.06.2025

<https://fimportal.de/xzufi-services/121361809/L100002>

Modul	Sachverhalt
Leistungsschlüssel	99066002058004, 99066002058004
Leistungsbezeichnung I	Insolvency proceedings Implementation of estate insolvency proceedings
Leistungsbezeichnung II	Implementation of estate insolvency proceedings
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Nordrhein-Westfalen
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	Leistungsobjekt mit Verrichtung
Leistungsgruppierung	Insolvenz (066)
Verrichtungskennung	Durchführung (058)
SDG-Informationsbereich	Insolvenzverfahren und Liquidation von Unternehmen

Modul	Sachverhalt
Lagen Portalverbund	Sanierung und Insolvenz (2160300)
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	09.06.2021
Fachlich freigegeben durch	Ministry of Justice of the State of North Rhine-Westphalia
Handlungsgrundlage	<p>§§ 315 ff. InsO</p> <p>§§ 1975 ff. BGB</p> <p>§ SECTION 780 ZPO</p> <p>https://www.gesetze-im-internet.de/insol/_315.html</p> <p>https://www.gesetze-im-internet.de/bgb/_1975.html</p> <p>https://www.gesetze-im-internet.de/zpo/_780.html</p> <p>https://www.gesetze-im-internet.de/insol/_315.html</p> <p>https://www.gesetze-im-internet.de/bgb/_1975.html</p> <p>https://www.gesetze-im-internet.de/zpo/_780.html</p>
Teaser	If you have inherited and the estate is insolvent and/or over-indebted, you can apply for estate insolvency proceedings (in due time) in order to limit your liability.
Volltext	<p>When someone dies (succession), the assets of the deceased person (inheritance or estate) are transferred in their entirety to one or more other persons (heirs).</p> <p>The heirs not only receive the assets. They are also liable for the liabilities of the estate.</p> <p>If the estate is (imminently) insolvent or overindebted, you should consider all the circumstances of the specific individual case and think carefully about how to proceed. If necessary, it is advisable to seek advice and assistance (probably for a fee) from experts with special knowledge of inheritance and insolvency law. Possible further steps in such situations include</p> <ul style="list-style-type: none"> • Acceptance of the inheritance, with the consequence that you will generally have to settle the existing liabilities of the estate; liability is generally unlimited, there is no separation between the estate and the

Modul

Sachverhalt

heir's other assets

- Waiver of the inheritance in due form and time (§§ 1942 ff. BGB)
- File an application for the opening of insolvency proceedings against the estate with the competent probate court

If you decide to file for insolvency, your liability as heir for the liabilities of the estate is generally limited to the estate if insolvency proceedings are opened (by the insolvency court).

Please note here: In such a situation, you must immediately apply for the opening of the estate insolvency proceedings if you have become aware or should have become aware of the insolvency or over-indebtedness of the estate. If you fail to do so, you will be liable to the creditors for the resulting loss.

If the insolvency court does not open insolvency proceedings against the estate only because the costs of the insolvency proceedings cannot be financed by the estate, you as the heir can raise a plea of insufficiency (Section 1990 BGB) if:

- claims are made against you by creditors of the estate and
- the estate is not sufficient to pay this claim.

Erforderliche Unterlagen

Application for the opening of insolvency proceedings and any other documents

When filing the application, submit the documents directly which will show the insolvency court that you are entitled to apply for insolvency proceedings. As an heir, for example, you should explain and substantiate your status as an heir with suitable documents (e.g. by submitting a certificate of inheritance or a will).

Voraussetzungen

- Written application
- Application by authorized person: each heir executor of the estate estate guardian executor of the will who is entitled to administer the estate every creditor of the estate
- Existence of a reason for opening Insolvency (§ 17

Modul	Sachverhalt
	<p>InsO) Over-indebtedness (§ 19 InsO) Impending insolvency, if applicable (Section 18 InsO)</p> <ul style="list-style-type: none"> • Estate can probably finance the costs of the insolvency proceedings
Kosten	<p>Insolvency proceedings are subject to a fee. Court fees are incurred, the amount of which depends on the value of the insolvency estate in each individual case (see also Costs of insolvency proceedings).</p>
Verfahrensablauf	<ul style="list-style-type: none"> • An application for the opening of estate insolvency proceedings is formulated and submitted to the competent insolvency court together with the other necessary documents. • If not all heirs file the application, the insolvency court will first hear the other heirs. • If there is an admissible application for insolvency, the insolvency court checks ex officio (i.e. on its own initiative) whether there are grounds for opening insolvency proceedings and whether there are sufficient assets to cover the costs of the insolvency proceedings. For this purpose, the insolvency court usually commissions an expert to prepare an expert opinion. • Once the insolvency court has completed its investigations and these have shown that there are grounds for insolvency and that the costs of the insolvency proceedings can be financed by the estate, the insolvency court opens insolvency proceedings against the estate.
Bearbeitungsdauer	
Frist	<p>The heir should file an application for the opening of insolvency proceedings immediately if he or she becomes aware of the insolvency or overindebtedness of the estate. A corresponding application by a creditor of the estate is only admissible within two years of accepting the inheritance.</p>
weiterführende Informationen	
Hinweise	
Rechtsbehelf	

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Kurztext	<ul style="list-style-type: none"> • Implementation of estate insolvency proceedings • Heirs not only inherit the assets of the deceased person. They are also liable for the debts of the estate • In order to limit liability, an application can be made for probate insolvency proceedings upon acceptance of the inheritance • The application must be filed immediately after becoming aware of the liabilities of the estate. • It is advisable to seek advice from experts in the field of inheritance law in advance
Ansprechpunkt	
Zuständige Stelle	
Formulare	Application for the opening of estate insolvency proceedings
Ursprungsportal	Insolvenzverfahren Durchführung Nachlassinsolvenzverfahren, Insolvency proceedings Implementation of estate insolvency proceedings