

99066004000000, 99066004000000

Discharge of residual debt

Heruntergeladen am 01.07.2025

<https://fimportal.de/xzufi-services/121361813/L100002>

Modul	Sachverhalt
Leistungsschlüssel	99066004000000, 99066004000000
Leistungsbezeichnung I	Discharge of residual debt
Leistungsbezeichnung II	Course of the residual debt discharge 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
Leistungsgruppierung	Insolvenz (066)
Verrichtungskennung	
SDG-Informationsbereich	Insolvenzverfahren und Liquidation von Unternehmen
Lagen Portalverbund	Sanierung und Insolvenz (2160300)
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	23.04.2021

Modul	Sachverhalt
Fachlich freigegeben durch	Ministry of Justice of the State of North Rhine-Westphalia
Handlungsgrundlage	<p>§§ Sections 286 et seq. Paragraph 1 InsO</p> <p>§ Section 14 InsVV</p> <p>https://www.gesetze-im-internet.de/inso/_286.html</p> <p>https://www.gesetze-im-internet.de/insvv/_14.html</p> <p>https://www.gesetze-im-internet.de/inso/_286.html</p> <p>https://www.gesetze-im-internet.de/insvv/_14.html</p>
Teaser	You can be released from your debts by successfully completing residual debt discharge proceedings.
Volltext	<p>In order to be granted residual debt discharge, you must have made a genuine effort to pay off your debts. For a legally defined period of time, you must make your seizure-free assets and (earned) income available to repay your debts.</p> <p>As a natural person, you can obtain a discharge of residual debt both as part of standard insolvency proceedings and as part of consumer insolvency proceedings. The procedure for residual debt discharge is divided into the following main stages:</p> <ul style="list-style-type: none"> • Application proceedings with opening and admissibility decision • Main proceedings until the end of the insolvency proceedings • Proceedings after the end of the insolvency proceedings until the end of the assignment period, the so-called residual debt discharge proceedings or also known as the good conduct phase. <p>Application proceedings</p> <p>The insolvency court's first decision on the discharge of residual debt is the decision on the admissibility of the application for discharge of residual debt. This is where it is decided whether the proceedings will be initiated at all. In most proceedings, the insolvency court makes the decision before or when the insolvency proceedings are opened.</p>

Modul

Sachverhalt

Main proceedings until the end of the insolvency proceedings

Once insolvency proceedings have been opened and the main proceedings have been completed, the insolvency court will generally only deal with your application for discharge of residual debt again at the final meeting of creditors (so-called final meeting) or if a decision is made to discontinue the proceedings due to a lack of assets. The insolvency creditors are then given the opportunity to comment on this application by the final date set by the court or the deadline set by the court (in written proceedings) and, if necessary, to submit an application for refusal of residual debt discharge. Applications for refusal can only be filed by creditors who have registered a claim in the insolvency schedule.

If a creditor files an application for refusal, the reason for refusal on which he/she is relying must be substantiated with a comprehensible description of the facts. If you dispute these facts, the creditor must provide credible evidence by the closing date or deadline at the latest. If the credibility is established, the insolvency court will determine the facts relevant to the decision ex officio.

If, after hearing you and clarifying the facts, the court does not find any grounds for refusal, it will appoint a trustee together with the termination or discontinuation of the insolvency proceedings due to insufficient assets. The debtor's attachable emoluments are transferred to this person on the basis of the declaration of assignment. If, however, a reason for refusal is established, the insolvency court may decide to refuse discharge of residual debt, taking into account all the circumstances of the individual case. In the event of such a refusal, a good conduct phase is no longer required.

Good conduct phase

If the insolvency proceedings are legally terminated, the declaration of assignment submitted when the application was filed comes into force. The term of this

Modul
Sachverhalt

assignment is generally three years (or five in the case of renewed proceedings). However, the time that has elapsed since the opening of the insolvency proceedings is counted towards this term.

From the legally binding termination of the insolvency proceedings until the end of the assignment period, you must fulfill various obligations. Among other things, you must be in suitable gainful employment and, if you are unemployed, you must make efforts to find such employment; you may not refuse any reasonable employment. If you are self-employed, you must make payments to the trustee to put the insolvency creditors in the same position as if you had entered into an appropriate employment relationship.

If the requirements for early granting of residual debt discharge are not met or the term of the assignment declaration ends prematurely due to a refusal, the court will decide on the granting of residual debt discharge after the assignment period has expired (see also Residual debt discharge/decision or granting or refusal of residual debt discharge).

Erforderliche Unterlagen

- (possibly already filed) application for the opening of insolvency proceedings against your assets
- Admissible application for discharge of residual debt
- Declaration (see above)
- Insurance (see above)
- Declaration of assignment (see above)

Voraussetzungen

- Application (if already filed) for the opening of insolvency proceedings against your assets
- Application for discharge of residual debt
- Submission of a declaration as to whether the conditions for inadmissibility of the application are met, including whether residual debt discharge has already been granted in the last eleven years or whether residual debt discharge has been refused in the last five years; the accuracy and completeness of this declaration must be confirmed.
- Submission of a declaration according to which the attachable earned income is assigned for the legally regulated period (so-called declaration of assignment)

Modul

Sachverhalt

Kosten

The court fees and the remuneration of the insolvency administrator are initially calculated according to the value of the insolvency estate; further cost factors and surcharges in the calculation are regulated by law and are common in practice (see also Costs of insolvency proceedings). The trustee's work in monitoring the fulfillment of your obligations is usually charged on an hourly basis. As the insolvency debtor, you can apply for a deferral of the procedural costs (read also Deferral of procedural costs in insolvency proceedings). If an application for refusal or revocation of discharge of residual debt is filed, this may result in further costs, particularly if evidence is taken. These costs are primarily borne by the losing party. However, the petitioning creditor is also always liable in relation to the state treasury.

Verfahrensablauf

You can apply for residual debt discharge in writing using the appropriate form.

- Download the form online and print it out.
- Complete the form and enclose the necessary supporting documents.

Submit the application (with the necessary further declarations) to the relevant insolvency court.

- The court will decide on the opening of insolvency proceedings and the admissibility of the application for residual debt discharge.
- If all requirements are met, the insolvency court will open insolvency proceedings against your assets and determine the admissibility of your application for residual debt discharge. The insolvency administrator realizes your seizure-free assets and distributes the proceeds to the creditors.
- Once the assets have been realized, the insolvency proceedings are terminated. The so-called good conduct phase then begins. This generally ends at the end of the assignment period.
- At the end of the 3-year (or 5-year in the case of renewed proceedings) assignment period, the insolvency court decides whether to grant discharge of residual debt (see also Discharge of residual debt decision or Granting or refusal of discharge of residual

Modul	Sachverhalt
	<p>debt).</p> <p>At your request, residual debt discharge can be granted early if the procedural costs and other so-called debts of the estate have been repaid and the creditors have not registered any claims or all registered claims have been met.</p>
Bearbeitungsdauer	
Frist	
weiterführende Informationen	https://www.justiz.nrw/BS/formulare/insolvenz/restschuldbefreiungsverfahren/index.php
Hinweise	As an alternative to residual debt discharge proceedings, an insolvency plan can be considered (see also the text Insolvency plan or Insolvency plan as a restructuring instrument)
Rechtsbehelf	
Kurztext	<ul style="list-style-type: none"> • Applying for residual debt discharge • Implementation of residual debt discharge proceedings • Make a genuine effort to pay off the debts
Ansprechpunkt	
Zuständige Stelle	
Formulare	https://www.justiz.nrw/BS/formulare/insolvenz/restschuldbefreiungsverfahren/index.php
Ursprungsportal	Restschuldbefreiung, Discharge of residual debt