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Insolvency plan

Heruntergeladen am 28.06.2025

<https://fimportal.de/xzufi-services/121361824/L100002>

Modul	Sachverhalt
Leistungsschlüssel	99066009000000, 99066009000000
Leistungsbezeichnung I	Insolvency plan
Leistungsbezeichnung II	Insolvency plan as a restructuring instrument
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	11.05.2021

Modul	Sachverhalt
Fachlich freigegeben durch	Ministry of Justice of the State of North Rhine-Westphalia
Handlungsgrundlage	§§ Sections 217 et seq. Insolvency Code (InsO) https://www.gesetze-im-internet.de/inso/BJNR286600994.html#BJNR286600994BJNG036200000 https://www.gesetze-im-internet.de/inso/BJNR286600994.html#BJNR286600994BJNG036200000
Teaser	The insolvency plan enables the parties to the proceedings to conduct the proceedings in a way that deviates from the statutory provisions, in particular to preserve the company.
Volltext	<p>The insolvency plan enables the parties to the proceedings to conduct the proceedings in a way that deviates from the statutory provisions, in particular to preserve the company. On the basis of a plan, the parties involved can handle insolvencies flexibly and efficiently.</p> <p>To this end, they can regulate the satisfaction of creditors entitled to separate satisfaction and insolvency creditors, the realization of the assets and their distribution to the parties involved as well as the handling of the proceedings and the debtor's liability after the end of the proceedings in deviation from the provisions of the Insolvency Code.</p> <p>Both the insolvency administrator and the debtor are entitled to submit an insolvency plan to the insolvency court.</p> <p>The debtor can combine the submission of the insolvency plan with the application to open insolvency proceedings.</p> <p>The insolvency creditors do not have the opportunity to submit an insolvency plan directly, but the creditors' meeting can instruct the insolvency administration to draw up a plan at the report meeting, the objective of which can be specified by the creditors' meeting.</p> <p>The insolvency plan must contain a descriptive and a formative part.</p>

Modul

Sachverhalt

The illustrative part of the insolvency plan must describe which measures have been taken or are to be taken in the course of the insolvency proceedings in order to achieve the objectives of the submitted insolvency plan. Furthermore, the descriptive part should contain all information relevant to the parties' decision on the plan and the court's confirmation.

The content of the descriptive part should therefore be an analysis of the company's weaknesses and a description of the envisaged distribution of assets and realization as well as the handling of the proceedings. In particular, it should be stated whether the company is to be liquidated, restructured by the old legal entity, restructured by transfer or by another solution. Furthermore, it must be stated how the planned measures will affect the satisfaction of creditors and, if applicable, the rights of shareholders.

The constructive part of the insolvency plan must set out the extent to which the legal position of the individual parties involved is to be changed by the plan. The insolvency administrator may be authorized by the plan to take the measures necessary to implement the plan.

When determining the rights of the parties involved in the insolvency plan, the parties with the same legal status shall be grouped together. When forming groups, the particular circumstances of each individual case must be taken into account.

The insolvency court must examine the submitted insolvency plan, after which a vote on the acceptance of the plan can be taken at a creditors' meeting and the insolvency court must finally confirm the acceptance of the plan (see also the text Insolvency plan resolution or resolution on an insolvency plan).

Erforderliche Unterlagen

- Insolvency plan
- Necessary plan annexes within the meaning of sections 229 et seq. InsO, for example in the event that payments to the insolvency creditors are to be made from the income of the continuing company:

Modul

Sachverhalt

Statement of assets and liabilities (Section 229 InsO), Income-expenditure forecast for the planned period, If applicable, a declaration by the debtor of the debtor or the general partner that they are prepared to continue the company on the basis of the plan (section 230 (1) InsO), declarations of consent from creditors and/or creditors who wish to take over share or membership rights or participations in a legal entity (section 230 (2) InsO), if applicable, a declaration by a third party who has assumed obligations towards the creditors in the event that the plan is confirmed

Voraussetzungen

- (existing) application for the opening of insolvency proceedings
- Insolvency plan, consisting of a descriptive and a constructive part, as well as the necessary annexes to the insolvency plan
- Submission of the insolvency plan by an authorized person (insolvency administrator, insolvency debtor)
- Compliance with the statutory requirements regarding the content of the insolvency plan, in particular the proper formation of groups in the insolvency plan

Kosten

Verfahrensablauf

- The insolvency debtor or the insolvency administrator writes an insolvency plan including the necessary annexes. The insolvency plan can be submitted with the insolvency application in order to speed up the proceedings. The creditors' meeting can also instruct the insolvency administrator to draw up an insolvency plan at the report meeting.
- The insolvency plan drawn up must be submitted to the competent insolvency court together with the complete annexes. The insolvency court then examines the documents submitted, in particular whether the provisions on the submission and content of the plan have been complied with.
- If the result of the examination is positive for the submitter, the insolvency court will usually set a discussion and voting date at which the entitled parties will vote on the insolvency plan after the discussion.
- If the necessary majorities are achieved, the insolvency court gives the insolvency debtor and the

Modul	Sachverhalt
	creditors' committee, if one has been appointed, the opportunity to comment. Finally, the court confirms the insolvency plan if the requirements are met (see also text Insolvency plan resolution or Resolution on an insolvency plan).
Bearbeitungsdauer	
Frist	Submission of the insolvency plan: by the closing date at the latest
weiterführende Informationen	
Hinweise	
Rechtsbehelf	
Kurztext	<ul style="list-style-type: none"> • Insolvency plan as a restructuring instrument • makes it possible to conduct the proceedings in a way that deviates from the statutory regulations, in particular to preserve the company.
Ansprechpunkt	
Zuständige Stelle	
Formulare	
Ursprungsportal	Insolvenzplan, Insolvency plan