

99066002058004, 99066002058004

# Conducting insolvency proceedings for succession

Heruntergeladen am 28.06.2025

<https://fimportal.de/xzufi-services/438732173/L100040>

Modul	Sachverhalt
Leistungsschlüssel	99066002058004, 99066002058004
Leistungsbezeichnung I	Conducting insolvency proceedings for succession
Leistungsbezeichnung II	Succession insolvency proceedings
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Niedersachsen
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
Lagen Portalverbund	Sanierung und Insolvenz (2160300)
Einheitlicher	

Modul	Sachverhalt
Ansprechpartner	Nein
Fachlich freigegeben am	01.11.2021
Fachlich freigegeben durch	Ministry of Justice of Lower Saxony
Handlungsgrundlage	<a href="http://www.gesetze-im-internet.de/inso/BJNR286600994.html#BJNR286600994BJNG033400000">http://www.gesetze-im-internet.de/inso/BJNR286600994.html#BJNR286600994BJNG033400000</a> <a href="https://www.gesetze-im-internet.de/bgb/_1975.html">https://www.gesetze-im-internet.de/bgb/_1975.html</a> <a href="https://www.gesetze-im-internet.de/zpo/_780.html">https://www.gesetze-im-internet.de/zpo/_780.html</a> <a href="http://www.gesetze-im-internet.de/inso/BJNR286600994.html#BJNR286600994BJNG033400000">http://www.gesetze-im-internet.de/inso/BJNR286600994.html#BJNR286600994BJNG033400000</a> <a href="https://www.gesetze-im-internet.de/bgb/_1975.html">https://www.gesetze-im-internet.de/bgb/_1975.html</a> <a href="https://www.gesetze-im-internet.de/zpo/_780.html">https://www.gesetze-im-internet.de/zpo/_780.html</a>
Teaser	<p>If you have inherited and the estate is insolvent and/or over-indebted, you can apply for insolvency proceedings (in due time) for the purpose of limiting liability.</p>
Volltext	<p>When someone dies (inheritance), the assets of the deceased person (inheritance or estate) pass as a whole to one or more other persons (heirs).</p> <p>The heirs not only obtain the assets. They are also liable for the debts of the estate.</p> <p>If the estate is (imminently) insolvent or over-indebted, you should take into account all the circumstances of the specific individual case and think carefully about how to proceed. If necessary, it is advisable to seek (probably fee-based) advice and help from professionals with special knowledge of inheritance and insolvency law. Conceivable further action in such situations is, among others:</p> <ul style="list-style-type: none"> <li>• Acceptance of the inheritance with the consequence that you must in principle settle the existing debts of the estate; liability is in principle unlimited, there is no separation between the estate and other assets of the heir</li> <li>• Form and time waiver of inheritance (§§ 1942 ff. BGB)</li> <li>• File an application for the opening of insolvency proceedings over the estate with the competent probate court</li> </ul>

## Modul

## Sachverhalt

If you decide to file for bankruptcy, your liability as heir for the debts of the estate is usually limited to the estate when the insolvency proceedings are opened (by the insolvency court).

Please note: In such a situation, you must immediately apply for the opening of insolvency proceedings if you have become aware of the insolvency or over-indebtedness of the estate or should have become aware of it. If you do not do this, you are responsible to the creditors for the resulting damage.

If the insolvency court does not open insolvency proceedings over the estate only because the costs of the insolvency proceedings cannot be financed by the estate, you as heir may raise a plea of poverty (§ 1990 BGB) if:

- they are claimed by creditors of the estate and
- the discount is insufficient to pay that claim.

## Erforderliche Unterlagen

Application for the opening of insolvency proceedings and, if applicable, further documents

When filing the application, submit directly the documents from which the insolvency court can see that you are entitled to apply for insolvency proceedings. As an heir, you should, for example, explain and substantiate with suitable documents what your position as heir results from (for example, by presenting a certificate of inheritance or a will).

## Voraussetzungen

- written request
- Application by entitled person: any heir Administrator of the estate Trustee of the estate Executor of the will who is responsible for administering the estate .dem any creditor of the estate
- Existence of a ground for initiating the procedure Insolvency (§ 17 InsO) Over-indebtedness (§ 19 InsO) possibly imminent insolvency (§ 18 InsO)
- Estate expected to be able to finance costs of insolvency proceedings

## Kosten

The procedure is subject to a fee.

## Modul

## Sachverhalt

For the proceedings on the debtor's application for the opening of insolvency proceedings, a 0.5 fee according to No. 2310 KV GKG is charged - at least 36 euros. Decisive for the calculation of the concrete amount incurred is the value of the insolvency estate at the time of the closure of the insolvency proceedings.

## Verfahrensablauf

- An application for the opening of 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 hears the remaining heirs first.
- If there is an admissible insolvency application, the insolvency court examines ex officio (i.e. on its own initiative) whether there is a reason for opening proceedings and whether there is 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.
- If the insolvency court has completed its examinations and these have shown that there is a reason for insolvency and the costs of the insolvency proceedings can be financed by the estate, the insolvency court opens insolvency proceedings against the estate.

## Bearbeitungsdauer

The processing time is individual. If there is an admissible insolvency application, the insolvency court examines ex officio (i.e. on its own initiative) whether there is a reason for opening proceedings and whether there is 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.

## Frist

The heir must file the application for the opening of insolvency proceedings without delay if he or she becomes aware of the insolvency or over-indebtedness of the estate. Otherwise, he or she is responsible to the creditors for the resulting damage. An application to this effect by a creditor of the estate is admissible only within the period of two years since the acceptance of the succession.

Modul	Sachverhalt
weiterführende Informationen	
Hinweise	
Rechtsbehelf	If the opening of insolvency proceedings is refused, the applicant and, if the application is rejected pursuant to § 26 InsO, the debtor are entitled to an immediate appeal pursuant to § 34(1) InsO. If insolvency proceedings are opened, the debtor is entitled to an immediate appeal pursuant to Section 34(2) InsO.
Kurztext	<ul style="list-style-type: none"> <li>• Conducting insolvency proceedings for succession</li> <li>• Heirs not only acquire the assets of the deceased person. You are also liable for the debts of the estate</li> </ul>
Ansprechpunkt	<p>The locally competent insolvency court.</p> <p>The insolvency court in whose district the debtor has his general place of jurisdiction has exclusive territorial jurisdiction.</p> <p>If the centre of an independent economic activity of the debtor is located elsewhere, the insolvency court in whose district that place is situated shall have exclusive jurisdiction.</p> <p>The competent court can be found here.</p>
Zuständige Stelle	
Formulare	<p>Forms/online services available: Yes</p> <p>Written form required: Yes</p> <p>Informal application possible: No</p> <p>Personal appearance required: No</p>
Ursprungsportal	Conducting insolvency proceedings for succession, Durchführung eines Nachlassinsolvenzverfahrens