

99066004024000, 99066004024000

Granting or refusal of discharge of residual debt

Heruntergeladen am 01.07.2025

<https://fimportal.de/xzufi-services/439222031/L100040>

Modul	Sachverhalt
Leistungsschlüssel	99066004024000, 99066004024000
Leistungsbezeichnung I	Granting or refusal of discharge of residual debt
Leistungsbezeichnung II	
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	Beschluss (024)
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	Lower Saxony Ministry of Justice
Handlungsgrundlage	http://www.gesetze-im-internet.de/inso/_281.html http://www.gesetze-im-internet.de/inso/_281.html
Teaser	To be freed from the debts can succeed through the successful completion of a residual debt discharge procedure.
Volltext	<p>The residual debt discharge procedure (see also text "Residual debt discharge proceedings" or course of the residual debt discharge proceedings) usually ends with a court decision: granting or refusal of the discharge of residual debt by a decision of the insolvency court.</p> <p>If the proceedings have not been terminated prematurely, the insolvency court usually decides on the application for discharge of residual debt when the assignment period has expired. The assignment period is 3 years (or 5 years in a new procedure). The court first gives the persons involved in the proceedings the opportunity to submit their observations. Insolvency creditors as well as the trustee can apply for the refusal of the discharge of residual debt.</p> <p>If a creditor files an application for refusal, the ground for refusal on which he relies must be substantiated with a comprehensible description of the facts. If you dispute these facts, the creditor must make the factual submission credible. If prima facie evidence is successful, the insolvency court determines the facts relevant to the decision ex officio.</p> <p>If, after your hearing and after clarification of the facts, the court does not find any ground for refusal, it rejects the application for refusal of discharge of residual debt. If, on the other hand, a ground for refusal is established, the insolvency court may decide to refuse discharge of residual debt, taking into account all the circumstances of the respective individual case.</p>

Modul
Sachverhalt

As a rule, the granting of discharge of residual debt is effective against all insolvency creditors. It refers to debts that were already established at the opening of insolvency proceedings and have not yet been repaid. It also applies to insolvency creditors who have not lodged their claims. The discharge of residual debt does not include the so-called debts of the estate, i.e. the obligations that have arisen in connection with the insolvency proceedings. Likewise, the discharge of residual debt does not cover other new debts that were created after the opening of insolvency proceedings, in particular not the constantly recurring obligations to pay maintenance or apartment rent after the opening date. In addition, certain claims are excluded from the discharge of residual debt; these include, inter alia, fines, fines, periodic penalty and administrative fines and liabilities arising from an intentionally committed tort (e.g. bodily injury, damage to property), provided that the creditors have stated the facts from which they believe this legal basis arises when lodging their claim.

It should be noted, however, that which liabilities are covered by the discharge of residual debt and which are not, can only be determined specifically on the basis of the circumstances of the respective individual case.

If the discharge of residual debt has already been granted, it can also be revoked retrospectively at the request of an insolvency creditor, if, for example, it subsequently turns out that the debtor intentionally violates one of his obligations and thereby significantly impaired the satisfaction of the insolvency creditors or the debtor has intentionally or grossly negligently violated obligations to provide information or cooperation after the discharge of residual debt has been granted, which he has under the Insolvency Code

Erforderliche Unterlagen

see prerequisites

Voraussetzungen

- Admissible application for discharge of residual debt has been filed
- the assignment period has expired

Modul	Sachverhalt
	<ul style="list-style-type: none"> • No ground for refusal has been established by the insolvency court at the request of a creditor.
Kosten	<p>The insolvency proceedings are subject to a fee. Court fees are incurred, the amount of which depends on the value of the respective insolvency estate in the individual case. If certain conditions are met, it is possible to apply for the deferral of the costs of the proceedings.</p>
Verfahrensablauf	<ul style="list-style-type: none"> • The granting or refusal of the discharge of residual debt takes place at the end of the residual debt discharge procedure. Consumers must file the application for discharge of residual debt with the insolvency application or immediately after this application. Other persons should combine the application for discharge of residual debt with the insolvency application. • Before the opening of insolvency proceedings, the insolvency court examines whether the application for discharge of residual debt is admissible. • If discharge of residual debt was granted in insolvency proceedings applied for after 1 October 2020, a new application for discharge of residual debt is only admissible after eleven years. • If the application for discharge of residual debt is admissible (e.dem.g. because the debtor has neither been granted nor denied discharge of residual debt so far), the court regularly determines with the opening of insolvency proceedings that the debtor obtains discharge of residual debt if no reasons for refusing discharge of residual debt are known in the insolvency proceedings and in the subsequent good conduct period and asserted by the creditors. and the debtor fulfils certain obligations during the good conduct period.
Bearbeitungsdauer	
Frist	<ul style="list-style-type: none"> • Consumers must apply for discharge of residual debt with the insolvency application or immediately after this application. • Other persons should combine the application for discharge of residual debt with the insolvency application.

weiterführende

Modul
Sachverhalt
Informationen
Hinweise

https://www.bmjv.de/SharedDocs/Publikationen/DE/Restschuldbefreiung_Chance_Schuldner.pdf?__blob=publicationFile&v=23
https://www.bmjv.de/SharedDocs/Publikationen/DE/Restschuldbefreiung_Chance_Schuldner.pdf?__blob=publicationFile&v=23
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https://www.bmjv.de/SharedDocs/Publikationen/DE/Restschuldbefreiung_Chance_Schuldner.pdf?__blob=publicationFile&v=23

Rechtsbehelf

Pursuant to § 300.4 sentence 2 InsO, the debtor and any insolvency creditor who applies for refusal of discharge of residual debt at the hearing pursuant to § 300.1 or § 300.2 InsO or who has asserted that the conditions for early discharge of residual debt pursuant to § 300.2 InsO are not met, the immediate complaint.

Kurztext

- Granting of discharge of residual debt
- Refusal of discharge of residual debt
- Decision discharge of residual debt

Ansprechpunkt

The locally competent insolvency court.

The insolvency court in whose district the debtor has his general place of jurisdiction has exclusive territorial jurisdiction.

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.

The competent court can be found here.

Zuständige Stelle
Formulare

Forms/online services available: Yes

Written form required: Yes

Modul	Sachverhalt
	Informal application possible: No
	Personal appearance required: No
Ursprungsportal	Erteilung oder Versagung der Restschuldbefreiung, Granting or refusal of discharge of residual debt