

## **Discharge – resolving of insolvency of a debtor**

A discharge is, in addition to bankruptcy order and restructuring, one of the options for resolving of the insolvency or imminent bankruptcy of a debtor in insolvency proceedings. The discharge can be initiated only by proposal from debtor, but only certain person can this proposal write and submit (the lawyer, the notary, the executot, the insolvency administrator or the accredited person).

If the debtor proves that his proposal has honest intent, and that he is able to pay at least 30 % of his claims to the creditors, then the court will grant the discharge from debts.

The discharge can be done in three ways: the liquidation of the assets, the performance of the payment calendary for up to 5 years or a combination of these two methods. The debtor himself can show his preferred way in the proposal, but the final decision is on unsecured creditors. Only if the creditors do not agree on any of these ways, will the court decide.

If the debtor performs his duties for the duration of the discharge, the court will decide on fulfillment of the discharge and exempts the debtor from paying the remaining parts of his claims. In the event of the performance of payment calendary, the debtor may be exempt from paying the remaining parts of his claims, even if he has not paid his creditors the required amount of the debt, but only as a result of circumstances he has not caused. The exemption may be subsequently withdrawn from debtor (up to 3 years afterwards), in case that the exemption has been obtained by debtor on the basis of fraud or if he has been convicted of a deliberate offenses to which he has substantially affected the process of discharge.

On 1 June 2019, an amendment to the Insolvency Act came into effect, which fundamentally changed the conditions of the process of discharge. It is no longer necessary to comply the above-mentioned 30 % threshold, but on the contrary, the discharge can only be requested once every 10 years. The methods of the discharge have been reduced to two - the liquidation of the assets and the performance of the payment calendary with the liquidation of the assets. The discharge may be subsequently fulfill either at the time of payment of 100 % of all claims, or at the period of 3 years when unsecured creditors receive at least 60 % of their claims, and ultimately when the debtor shall use his the best endeavors to repay to his creditors the highest possible amount, for a period of 5 years.