

Discharge from debts as a mode of resolving insolvency of a debtor

The aim of this thesis is to describe the institute of discharge from debts as one of the methods of resolving insolvency of a debtor, its principles and development, in the legal regulation in the context of relevant case-law and literature with respect to the ratified amendment of the legal regulation.

Discharge from debts is according to the valid Czech legal regulation, which is the Act no. 182/2006 Coll., the Insolvency Act, a method of resolving insolvency of a debtor, which we count, together with reorganization, among rehabilitation methods of resolving insolvency. The purpose of discharge from debts is ensuring relative satisfaction of creditors, which is not liquidating for the debtor, and enabling him a new life without debts. It concerns debtors non-entrepreneurs, natural persons and legal entities.

Only the debtor is entitled to apply for discharge from debts. The court shall while deciding on the debt discharge permission consider especially whether it is likely that at least 30 % of the claims of creditors receivable from the debtor will be settled and it shall also assess the honest intentions of the debtor.

There are two forms of the discharge from debts. One of them is discharge from debts by means of converting the debtor's assets into money, the treatment of which is analogous to resolving insolvency by means of bankruptcy. The other option is discharge from debts by means of a schedule of instalments, in which the debtor undertakes to pay a certain part of his or her incomes to his or her unsecured creditors within the time period of five years. Secured creditors shall be satisfied even in case of discharge from debts by means of a schedule of instalments from the proceeds from converting the assets used as security into money. The method of discharge from debts is decided by creditors who applied their claims in the proceeding by means of an application.

After fulfilling the conditions of discharge from debts the debtor shall apply for exemption from payment of the remaining part of the unsettled debts. Shall he or she in due time and manner fulfil his or her obligations during the process of discharge from debts, the court shall comply with the request. The effect is not extinction of debts but their non-enforcement. The court shall further follow the actions of the debtor and from legal reasons it may remove the granted exemption within the following time period of three years.