

ABSTRACT (ENG)

DISCHARGE OF A DEBTOR – ONE OF MODES OF INSOLVENCY SOLUTION

This diploma thesis aims to provide a detailed overview of the discharge from debts in the insolvency proceedings. The debt relief was incorporated into the Czech legal system by the Insolvency act, No. 182, 2006 Coll, which entered into force on the January 1st 2008.

The idea of debt discharge was led by an intention to provide highest possible and proportional satisfaction equally to all creditors and in the same time, to protect debtor's right to decent living conditions. In the case of successful debt discharge, the debtor is forgiven part of his debts, as long as he performs his good will during entire insolvency process.

The debtor must not have any debts originated in his business activities, unless he specifically agrees on an exception with the creditor. This determinates a debt discharge to be used mainly by individual persons, not by companies. Also, the final creditors' satisfaction must reach at least 30 % of debtor's claims.

We distinguish two forms of debt discharge. In the first case, which is called audition, all debtor's assets are sold out and received funds are used for creditors' satisfaction. In the second case, which uses agreed payment schedule, all debtor's income over the minimum base is regularly distributed among the creditors for future 5 years, unless the debtor manages to pay off all his claims sooner. After these 5 years, the rest of debts is discharged upon debtor's proposal. During this period, the debtor shall perform his employment to prove his good intention of returning the highest possible amount to all creditors. If proved, that the debtor was misusing this given opportunity, the court will revoke its prior judgement of the debt relief. The decision of which method shall be used is made by unsecured creditors.

The debt discharge proves to be helping people, as the number of application continues to rise.