



## Information on Law and Tax Level of August 2009

- **Legal framework** Restoration of Debtor`s Solvency or Recognition of the Debtor as Bankrupt Act of 30.06.1999
- **Insolvency phases**
  - 1) Preliminary proceedings:
    - Administration of debtor property
    - Restoration of debtor solvency
  - 2) Final insolvency proceedings (liquidation procedure)  
Both supervised by the court
- **Filing parties**
  - 1) The debtor company has an obligation to file
  - 2) Each creditor may file  
The court may not file
- **Grounds for filing**
  - 1) Debtor is insolvent (failure to pay its debts within 3 months, on petition by creditor or creditors when total debts exceed 300 x minimum wages (now UAH 189,000))
  - 2) Debtor likely to become insolvent
    - After paying all debts to one or several creditors the company will be unable to meet its obligations to other creditors in full
    - On passing resolution to wind up the company by company members (voluntary liquidation)
    - Debtor`s inability to pay its debts in full established in liquidation proceedings other than insolvency proceedings
  - 3) Voluntary liquidation of the company by company members
- **Opening proceedings**
  - The court opens proceedings on filing a petition on one of the above grounds within 5 days and appoints administrator
  - Opening of proceedings must be advertised in one of the public printed editions
  - The court declares a moratorium on satisfying creditors` claims
  - The administrator appointed by the court:
    - 1) Administers debtor`s property
    - 2) Secures company`s assets
    - 3) Analyzes financial, investment, and economic activities
    - 4) Considers claims declared by creditors
  - On appointment of the administrator, the powers of the debtor`s managing body are limited. All its decisions must be coordinated with the administrator.
- **Final proceedings**
  - Opening liquidation procedure
  - Appointment of liquidator
  - Debtor`s managing body loses its right to administer or dispose of assets
  - Formation of liquidation value
  - Sale of debtor`s property at open auction
  - Term of liquidation procedure limited to 18 months
- **Secured creditors** Claims by secured creditors are paid in full before other claims are settled.
- **Unsecured creditors** Claims by unsecured creditors are paid on a pro rata basis only after claims by all secured creditors are satisfied

- **Employees**      The following claims are paid along with claims by secured creditors:
- 1) Unpaid wages for three months before opening insolvency proceedings
  - 2) Compensation for unused and additional vacations 3) dismissal compensation
- Labor contracts terminated after opening of liquidation procedure and appointment of administration.
- **Self administration**      - In preliminary proceedings: the debtor`s managing body maintains the right to self administration (manage the company), but all its decisions must be approved by the administrator appointed.
- In final proceedings: the debtor`s managing body has no right to self administration, and is dismissed.
- **Insolvency plan**      - Involves the following:
- 1) Measures for restoring the debtor`s solvency
  - 2) Conditions for investment in the debtor
  - 3) Order in which creditors` claims will be satisfied - Subject to approval by the committee of creditors and court
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  - Consulting in all core areas of commercial law
  - Clients from CEE countries, Western Europe, and overseas
  - Signature characteristic is high level of local expertise and close all-round co-operation between partners and colleagues
  - Leading commercial law firm in CEE
  - Large network of contacts within the business community in each of the countries where it operates
  - Known as a reputable and reliable partner for financial and other institutions in insolvency & restructuring endeavours

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