99066005119000, 99066005119000

Deferral of costs in insolvency proceedings

Modul	Sachverhalt
Leistungsschlüssel	99066005119000, 99066005119000
Leistungsbezeichnung I	Deferral of costs in insolvency proceedings
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	Stundung (119)
SDG-Informationsbereich	Insolvenzverfahren und Liquidation von Unternehmen
Lagen Portalverbund	Sanierung und Insolvenz (2160300)
Einheitlicher	

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Ansprechpartner	Nein
Fachlich freigegeben am	01.11.2021
Fachlich freigegen durch	Lower Saxony Ministry of Justice
Handlungsgrundlage	http://www.gesetze-im-internet.de/inso/__4a.html https://www.gesetze-im-internet.de/inso/__290.html https://www.gesetze-im-internet.de/bgb/__1360a.html http://www.gesetze-im-internet.de/inso/__4a.html https://www.gesetze-im-internet.de/inso/__290.html https://www.gesetze-im-internet.de/bgb/__1360a.html
Teaser	If you do not have sufficient assets to pay the costs of conducting insolvency proceedings, you (as a natural person) can apply for the deferral of the costs of the proceedings.
Volltext	When conducting insolvency proceedings, procedural costs are incurred, which can be considerable (see "Costs of insolvency proceedings"). Only if these costs are covered, insolvency proceedings with the possibility of obtaining discharge of residual debt can be opened. If you do not have sufficient assets or do not receive an advance on procedural costs from third parties, you can apply for deferral of the costs of the proceedings. In principle, your spouse is obliged to pay an advance on the costs of proceedings; only if your spouse is also incapacitated can a deferral of the costs of the proceedings be considered. The deferral means that you do not have to make any payments - usually until the discharge of residual debt has been granted. During the insolvency proceedings and until the end of the declaration of assignment, the deferred procedural costs must be paid primarily from the insolvency estate. If the costs of the proceedings have not yet been repaid or not fully repaid to the state treasury after the discharge of residual debt has been granted, instalments may be granted for a maximum of 48 months. The prerequisite for this is that you are not in a position to cover the outstanding procedural costs at once. The court may change its decision on the granting of

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	the deferral if your personal or economic circumstances relevant to the decision have changed significantly. Such a change must be notified to the court without delay. If you do not comply with this obligation despite a request from the court, the deferment may be lifted. The court grants – provided that the conditions are met – the deferral separately for each stage of the proceedings. Stages of the proceedings are, in particular, the opening proceedings, the actual insolvency proceedings and the discharge of residual debt proceedings.
Erforderliche Unterlagen	• Application for the opening of insolvency proceedings • Admissible application for discharge of residual debt • Application for deferral of the costs of the proceedings with an attached declaration that there is no ground for refusal pursuant to § 290 sec. 1 no. 1 InsO. Such a reason exists if, in the five years preceding the application for the opening of insolvency proceedings or after this application, you have been finally sentenced to a fine of more than 90 daily rates or to imprisonment of more than three months for an offence under Sections 283 to 283c of the Criminal Code. • The application for deferment must be accompanied by a statement of the assets, in particular of the amount of current income, of the current liabilities together with the corresponding supporting documents. The insolvency courts also provide forms for this declaration of personal and economic circumstances. If an advance payment claim against the spouse under § 1360a sec. 4 BGB or life partner under § 5 LPartG comes into consideration, the application must contain statements on the spouse's ability to pay, the incurrence of the liabilities and the causes of the debt, so that the court can assess the question of the obligation to make advance payments (cf. BGH, decision of 24 July 2003 – IX ZB 539/02, juris para. 19) (We, 15/10)
Voraussetzungen	• Deferral of procedural costs can only be granted to

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	natural persons (not possible for legal entities, e.g. a GmbH) • Application for deferral of costs • Application for the opening of insolvency proceedings • Admissible application for discharge of residual debt, i.e. the deadlines of § 287a InsO must be complied with and there are no grounds for refusal (see also "Discharge of residual debt"). • It must be possible to obtain exemption from liabilities in the insolvency proceedings.
Kosten	Gebühr: Es fallen keine Kosten an
Verfahrensablauf	• If you have filed an application for the opening of insolvency proceedings, the insolvency court will check whether the costs of the proceedings are covered. • If costs are not covered, the insolvency court will request an advance on court costs from you. • If you do not have sufficient assets to pay this advance, you can apply for deferral of the costs of the proceedings. • In order to speed up the proceedings, it makes sense to file the application for deferment at the same time as the application for the opening of insolvency proceedings.
Bearbeitungsdauer	
Frist	Insolvency proceedings are opened only if the costs are covered. If the deferment is to be granted for the opening proceedings, the application must be submitted at the latest when the decision on the application to open proceedings is taken. Deferment of payment may be requested for the entire procedure or for several stages of the proceedings. Deferment is possible for the individual stages of the insolvency proceedings. A separate application must then be made for each stage of the procedure.
weiterführende Informationen	
Hinweise	
Rechtsbehelf	The debtor is entitled to lodge an immediate appeal against the refusal of the deferment or its cancellation

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	as well as against the refusal to appoint a lawyer (Section 4d(1) InsO); If the deferment is granted, the State Treasury shall be entitled to lodge an immediate appeal. This can only be based on the fact that, according to the personal or economic circumstances of the debtor, the deferment should have been refused (§ 4d(2) InsO).
Kurztext	Deferral of procedural costs in insolvency proceedings Costs of conducting insolvency proceedings are not covered
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	
Ursprungsportal	Verfahrenskostenstundung im Insolvenzverfahren, Deferral of costs in insolvency proceedings