

Moratorium on bankruptcy and its importance for business

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Dear clients, colleagues, friends,

Please note that a moratorium on bankruptcy is introduced from April 1, 2022 for 6 months, i.e. until October 1, 2022 in Russia in accordance with the Decree of the Government of the Russian Federation of 28.03.2022 No. 497.

The moratorium is total, i.e. it applies to all legal entities, as well as individual entrepreneurs and individuals, except for developers included in the Unified Register of Problem Facilities before April 1, 2022.

It is important to note that the moratorium applies only to bankruptcy initiated by creditors, i.e. one may still file for bankruptcy against oneself. However, during the period of the moratorium, the obligation to file for bankruptcy if there are signs of insolvency is abolished.

We also draw your attention to the restrictions that apply during the moratorium on bankruptcy:

- a ban on the satisfaction of the claims of the debtor's founder (participant) on the distribution of a share (participatory interest) in the property of the debtor in connection with the withdrawal from the composition of its founders (participants); the redemption or acquisition by the debtor of outstanding shares or payment of the actual value of the share (participatory interest);
- prohibition to terminate monetary obligations of the debtor by setting off a counter claim, if it violates the order of satisfaction of creditors' claims established by the Federal Law on Bankruptcy. This prohibition does not apply to the termination of obligations from financial contracts, the definition and execution of the net obligation;
- a ban on the seizure by the owner of the property of the debtor-unitary enterprise of the property belonging to the debtor;
- a prohibition on the payment of dividends, income on shares (interests), as well as the distribution of profits among the founders (participants) of the debtor;
- a ban on charging fines (penalties, interest) and other financial sanctions for non-fulfillment or improper fulfillment of monetary obligations and obligatory payments;
- a ban on foreclosure on pledged property, including out-of-court proceedings.

In case the deals are made, which violate the mentioned prohibitions, the creditors, whose rights are violated by such deals, will have additional possibilities to challenge them.

There is a legal way to eliminate the risks connected with the said restriction – you only have to send a notice on non-application of the moratorium against yourself to the Unified Federal Register of information on bankruptcy.

It is also important to take into account that during the moratorium period the enforcement proceedings on property claims that arose before the moratorium is suspended (the arrests on the property of the debtor and other restrictions on the disposal of the debtor's property, imposed in the course of the enforcement proceedings, are not removed).

Individual entrepreneurs and legal entities who filed for bankruptcy within the period of the moratorium may obtain a judicial installment on their creditors' claims.

DSL-Service is not responsible for the actions of clients committed on the basis of this review. For resolving specific issues we recommend to seek legal advice.

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