

Summary

Law 9/2015, of May 25th, on urgent measures in matters of insolvency.

Last May 26th, 2015, Law 9/2015 of May 25th, about urgent measures in matters of insolvency proceeding was published in the Official Gazette. Such measures entail certain modifications to the Bankruptcy Law based on three premises: (i) the continuity of viable companies; (ii) to adjust privileges accordingly in order to achieve pre-insolvency agreements; and (iii) respect the legal nature of real guarantees.

To this end, we remark the following modifications:.

Assessment of guarantees modifications

The purpose of the modification is to accurate the special privilege with the value of assets subject to the guarantee. As a consequence, such portion of the privileged credit that exceeds the assets value, will be qualified according to its nature.

A new assessment method has been included as added paragraph 5 to article 94 of the Bankruptcy Law.

Creditors' Meeting quorum modifications

Creditors arisen after resolution of bankruptcy are now graded with voting rights, excepting for such creditors specially connected to debtor.

Creditors Meeting shall be validly held when creditors representing, at least, the half of the liabilities comprising the creditors subjected to an eventual pre-insolvency agreement, excepting subordinated creditors, attend the meeting.

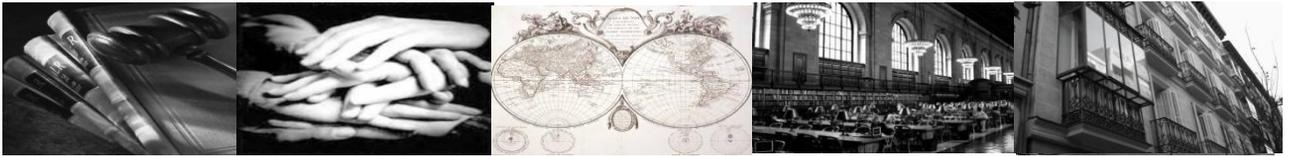
Insolvency Agreements modifications

A new paragraph is added to article 100 allowing payment in kind during the agreement phase, as long as the two following requirements are met:

- i.- That the assets are not essential for the continuity of company activity; and
- ii.- That fair valuation of assets are equal or inferior to the credit to be extinguished.

New criteria for the achievement of agreements is set forth, so that, limitations to adjustment of debt are removed and qualified majorities for higher debts write-down and moratoriums are required instead.

Insolvency agreement may bind to privileged creditors, including public institutions, when certain majorities are reached within their creditors category.



Modifications to Insolvency Agreements in force, are admitted. So that, those companies which anticipate their incapability to comply with the agreement—as well as creditors representing 30% of liabilities—will be entitled to promote the modification of the insolvency agreement. This request will be followed up before the Mercantile Court.

Winding up process modifications

In the case of acquisition of business divisions, the purchaser will be automatically subrogated in those contracts and administrative licenses held by the seller, excepting Social Security and workers debts.

Mercantile Court shall be entitled to withhold up to the 15% of the amount resulting from winding up in order to be able to undertake liabilities arisen from eventual liquidation dispute success.

A new section shall be created into the Official Gazette home web page, aimed to inform about the winding up process and thus, speed up the assets sell.

Miscellaneous modifications

Other modifications not connected to bankruptcy proceeding are been adopted by this law.

We remark the following:

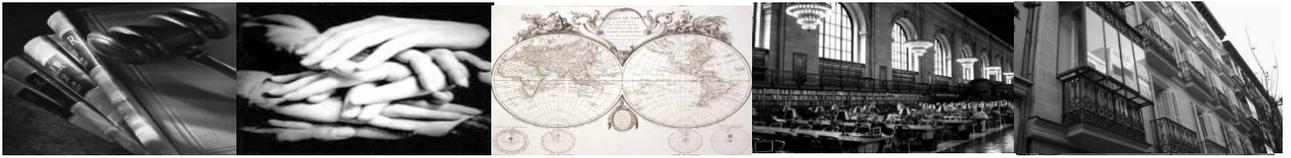
- *Modification to the Law on Capital Companies*

Administration body shall be entitled, now, to modify the corporate domicile anywhere into the national territory. This faculty was previously limited to local territory where the company was located.

- *Main modifications regarding corporate tax*

Capital increase operations by capitalization of credits will be valued, from a tax perspective, by the face amount established under mercantile regulation, being then, not affected for the accounting valuation of such capitalized credit.

Connected to bankruptcy proceeding, returns arisen as a consequence of debts write-down and moratoriums agreed into the bankruptcy proceeding, shall be allocated to taxable base when financial expenses of such debt are notated and up to the limited of that return.



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