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SUCCESS OUT OF INSOLVENCY

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SUCCESS OUT OF INSOLVENCY

- ⊙ Insolvency is a classic cross section subject
- ⊙ Insolvency, company, corporate and banking law
- ⊙ Business knowledge
- ⊙ Accounting
- ⊙ Courage

- ⊙ Official and published proceeding is only the top of the iceberg
- ⊙ Reasons for insolvency
 - ⊙ Low equity
 - ⊙ Financing restrictions by the banks (the Basel rules)
 - ⊙ Declining market volumes
 - ⊙ Rising competition and price pressure
 - ⊙ Mistakes of the management

SUCCESS OUT OF INSOLVENCY

- ⊙ Insolvencies are a very good opportunity for consultants to win new clients
- ⊙ Existing management of the affected company is only in exceptional circumstances able to reach an adequate agreement with the relevant stakeholders and the creditors
- ⊙ Old consultants have often accompanied the company for years, and may have contributed to the crisis
- ⊙ This is our and your chance!

SUCCESS OUT OF INSOLVENCY

- ⊙ Necessary measures to overcome a situation that threatens the existence of the company and ensure a lasting livelihood for the company
 - ⊙ A debt cut alone is not enough
 - ⊙ One of the ways to reach the turn around is to file for bankruptcy
 - ⊙ Well-planned insolvency procedures can offer advantages compared to out-of-court solutions

SUCCESS OUT OF INSOLVENCY

- ⊙ Insolvency is not the end of a story, it is or could be the beginning of success
- ⊙ What are the benefits of judicial restructuring
 - ⊙ Legal certainty
 - ⊙ Clear procedural rules
 - ⊙ Restructuring is also possible against the will of individual creditors
 - ⊙ Transparency of the procedure

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- ⊙ Appropriate media work in order to reduce image damage of a court's insolvency
- ⊙ Send positive signals to the markets

SUCCESS OUT OF INSOLVENCY

- ⊙ What are the fields of activity in the context of insolvency proceedings?
- ⊙ I. Insolvency administrator
 - ⊙ Interim management
 - ⊙ Tax consultants with a focus on insolvency taxation
 - ⊙ Business partners at international level
 - ⊙ Investors interested in acquiring a reorganized company or restructuring this company
 - ⊙ Financing experts

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- ⊙ II. Representative of the company to be restructured
- ⊙ Restructuring plan with self administration
 - ⊙ Minimum rate paid to creditors – 30%
 - 50% of the creditors and 50% of the present capital in the hearing must agree
 - ⊙ The administrator is only monitoring the company
 - Automatic stay - Contracts can not be terminated due to insolvency
- ⊙ Duration of the proceedings 60 – 90 days

SUCCESS OUT OF INSOLVENCY

- ⊙ The insolvent company can dissolve contracts in a preferential way
- ⊙ Employees can be dismissed more easily
- ⊙ Termination claims are only bankruptcy claims
- ⊙ A financial plan for the continuation period is mandatory
- ⊙ Secured creditors remain unaffected

SUCCESS OUT OF INSOLVENCY

- ⊙ Restructuring plan without self administration
 - ⊙ Minimum rate paid to creditors – 20%
 - ⊙ 50% of the creditors and 50% of the present capital in the hearing must agree
 - ⊙ The administrator is controlling the company; He is the lord of the proceeding;
 - ⊙ Automatic stay - Contracts can not terminate their contracts due to insolvency
 - ⊙ The insolvency administrator can dissolve contracts in a preferential way. The claims for damages of the contractual partners are only bankruptcy claims

SUCCESS OUT OF INSOLVENCY

- ⊙ Employees can be dismissed more easily
- ⊙ Termination claims are only bankruptcy claims
- ⊙ A Financial plan is not mandatory but helpful
- ⊙ Secured creditors remain unaffected
- ⊙ Duration of the proceedings 60 – 90 days

SUCCESS OUT OF INSOLVENCY

- ⊙ Transfer reorganization
- ⊙ Instead of an insolvency proceedings with and without self-administration which intends that the company owner remains in his position, a takeover of the company can take place by way of a so-called transfer reorganization
- ⊙ A transfer of the company in need of reorganization to another legal entity that already exists or which is to be newly established. Transfer reorganization takes place within the framework of an "asset deal". The Austrian Insolvency Code facilitates the transfer reorganization.

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- ⊙ The purchaser is, in particular, not liable for the debts of the acquired company.
- ⊙ In the case of a transfer reorganization the employees are favourably terminated and the termination claims represent insolvency receivables. The employees do not suffer any reduction to their claims because these are 100 % secured by the insolvency contingency fund.

- ⊙ III. TAX Advisor for the insolvent company
- ⊙ Accounting obligations continues to exist during the insolvency proceedings
- ⊙ The annual financial statements. Interesting tax issues in the context of an insolvency are
 - ⊙ Restructuring profit
 - ⊙ Group taxation and insolvency
 - ⊙ Input tax deduction

- ⊙ Accounting by Breakdown Values - in case of liquidation of the company
- ⊙ Treatment of income taxes

SUCCESS OUT OF INSOLVENCY

- ⊙ IV. Presenting creditors
 - ⊙ Detailed examination of the legal situation
 - ⊙ Better results

- ⊙ V. Presenting banks
 - ⊙ Avoidance claims

THANK YOU FOR YOUR ATTENTION



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