

Studia Ekonomiczne 60

RESTRUKTURYZACJA SPÓŁEK HANDLOWYCH ZAGADNIENIA EKONOMICZNE I PRAWNE

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STRESZCZENIA

LIABILITY OF COMPANIES INVOLVED IN DIVISION PROCEDURE FOR OBLIGATIONS OF DIVIDED COMPANY

Summary

Division of commercial companies has been regulated in title IV of commercial companies code (c.c.c.). By introducing this procedure into Polish legal system legislator has created so called "partial succession" of companies involved in division procedure. Such succession relates also to obligations, including debts, of divided company. Legislator formulated principles of such liability in art. 531 § 3 i 546 § 1 c.c.c. Both provisions indicates this liability to be jointly and severally in respect of all companies involved in division procedure. Nevertheless, in art. 546 § 1 c.c.c. liability of companies covers obligations pointed out directly in division plan. From the other hand, art. 531 § 1 c.c.c. says that all companies involved in division procedure carries jointly and severally liability for obligations, which were not exemplify in division plan. Analysis of above mentioned provisions leads to conclusion that liability of companies, though joint and several in both examples, is of different legal nature. An author tries to stipulate what is a legal nature of jointly an severally liability in above mentioned provisions of commercial companies code.

RESTRUCTURISATION OF DEBTS TO ENERGY ENTERPRISES IN THE CONTRACTS OF SUPPLYING ENERGY

Summary

According energy law customer (does not matter consumer or entrepreneur) can conclude with energy enterprise sale contract and distribution contract or universal agreement. There are mutual agreements, and it means that customer is obliged to pay for services or sale. According art. 6/3a of energy law the energy enterprises may suspend the supply of gaseous fuels, electricity, or heat if the customer delays the payment for the gaseous fuel, electricity, heat, or the services received for at least a month after the due date of payment in spite of a prior written notification of the intention to terminate the agreement and a designation of an additional two-week long term of settlement of the outstanding and current liabilities. So it means that situation of the energy enterprise is difficult because in practice it have not any possibilities to demand to fulfil reciprocal performance in the shorter term than this presented in art. 6/3a of energy law.

THE ENTREPRENEUR'S TAX STATUS IN THE PROCESS OF TRANSFORMATION

Summary

It is shown in this study that tax law interferes very strongly in economic processes in the scope of the defined type of company transformation, thereby it possesses influence on choice of a specified transformation configuration. There is a view, represented in the doctrine of law that taxes, by reason of their existence only or their special construction, possess influence on decisions taken by entrepreneurs to transform both on the institutional level (referring to optimal – from the tax point of view – choice of type of company) and on the functional level (referring to investment directions or sources of financing).

LEGAL CONDITIONS DETERMINING COURT'S APPROVAL OF LIQUIDATION PLAN

Summary

Bankruptcy and rehabilitation law act having repealed regulation introduced by two orders dating back to 1934, has alter many legal institutions, particularly an insolvency agreement (insolvency plan) concluded between bankrupt and his creditors. Contrary to the former law insolvency agreement had ceased to be a homogeneous institution. Currently it is possible to differentiate between reorganization agreement (reorganization plan), that characteristics are identical when compared with previously binding regulations and liquidation agreement (liquidation plan), which aims to maximize the sum received by creditors throughout the liquidation of whole bankrupt assets. Nevertheless, many principles remained immutable. Still insolvency agreement requires court's approval to be legally effective, though the catalogue of conditions which oblige the court to set aside insolvency agreement had been slightly altered. Within this article an author presented issues connected with notion and core of liquidation agreement as an legal institution as well as an analysis of conditions which lead to court's refusal when approval of insolvency agreement is considered.

WAYS OF REORGANIZATION BANKRUPT'S DEBTS DETERMINED WITHIN INSOLVENCY PLAN'S PROPOSALS

Summary

An article comprises the main aspects connected with content as well as with legal character of insolvency plan's proposals. An author's aim was to describe possibilities of debt's reorganization which are most likely to appear as a part of insolvency's plan content. Having regarded a range of issues discuss in this article the author was unable to present all possible ways of debt's reorganization and legal requirements they are to fulfill. As it arises from comments outlined within article despite the fact that catalogue of insolvency plan's proposals has an open character its formulation has to meet many conditions listed within statutory law.

PRINCIPLES OF GRANTING SHARES OR STOCKS TO SHAREHOLDERS OR STOCKHOLDERS IN THE MERGED COMPANY

Summary

The following paper presents a methodology of the exchange parity process and the practical ways of value of the convertible stocks instead of the assets in the merging companies. Determination of exchange parity of share's change is based on the assets' correct valuation of every company which take part in integration process.

Controversial seems to be the attitude, that shares or stocks in the merged company should be allocated on the basis of the balance sheet evaluation, which doesn't take into account the entrepreneur's competitiveness.

THE SUPERVISOR IN THE COMPANIES IN WHICH THE LOCAL GOVERNMENT HAS ITS PARTICIPATION AND IN THE COMPANIES WHICH HAVE COME INTO BEING BY CONVERSION FROM MUNICIPAL COMPANY

Summary

This publication includes a report about regulations concerning the supervisor in the companies in which the local government has its participation and in the companies which have come into being by conversion from municipal company. In this article the author also shortly presents the general profile of supervisory board in capital companies. The author also indicates the particular regulations concerning the companies in which the local government has its participation. There is also presented the issue of workers representatives participation in supervisory board of companies mentioned above with particular taking into consideration the election procedure and the issue of bounding the shareholders by the workers voting. In this publication the author evaluates the current regulations in the range of requirements given to the members of supervisory board who are the representatives of local government units in this board.

SUBSIDIES PROMOTING TRANSBORDER FUSION OF LIMITED COMPANIES

Summary

Following the decision on cross-border mergers of limited liability companies in accordance with Directive 2005/56/EC of October 26, 2006 of the European Parliament and the Council of Europe, the Polish legislator responded by implementing changes resulting in subsequent introduction of chapter 21, section I, title IV to commercial companies code.

As a result, the issue of surcharge may cause substantial theoretical and practical problems. This concern is based on the ground that cross-border mergers are subject to their respective national laws which often do not operate in the same terms. Presently, the European Union is composed of 27 states and the directive is applicable in some non-member countries as well, namely Norway and Iceland, two distinguishable constituents of the European Economic Area.

The impetus for the directive came from the need to create legal possibilities as well as to facilitate the merging process in the European Union and the European Economic Area member states. Arising from present-day necessities of large-scale economic, capital, and commercial integration, such legal practices as discussed in this paper are considered to be fundamental to the well-being of Polish entrepreneurs.