

LIQUIDATION OF COMPANIES IN PERU

An alternative in the
new normal?

Introduction

Many companies are still struggling due to the economic impact of the pandemic, which has led to a significant reduction in the revenues they used to earn on a regular basis. However, in some cases, cost reduction is not a sufficient measure to revive a company that, due to its line of business and the "new normal" that we are living, has simply been unexpectedly overtaken by a future that has taken us all by surprise.

This context has led to the reorganization of many business groups, as well as the change in the economic activities of several companies. However, for those companies which cannot reorganize or change their line of business, there are legal possibilities or alternatives that Peruvian legislation offers in such cases, such as suspending operations, filing for bankruptcy, and dissolving the company.

The suspension of operations is a concept applicable when a company foresees that it will generate no sales in a given period and, consequently, no purchases either. For such reason, the company requests the suspension of its operations before tax authorities for a specific period, which must not exceed 12 months. The benefit of this suspension is that, during such period, reporting and payment obligations to tax authorities will be suspended; however, if any transaction takes place, the referred suspension will cease.

In turn, a bankruptcy proceeding seeks to protect the company's credits and assets. In that sense, the Commission on Bankruptcy Proceedings of the National Institute for the Defense and Free Competition and the Protection of Intellectual Property (*Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual* or *INDECOPI* in Spanish) will be responsible for the respective proceedings, creating the necessary conditions for proper negotiation between the company and its creditors.

Finally, companies may dissolve and leave the Peruvian market when they realize that they are no longer profitable and that, on the contrary, they generate higher expenses and costs to their investors.



Stages



DISSOLUTION STAGE

- ▶ There are certain causes that lead to the dissolution of a company. If any of such causes is identified or when Management decides to dissolve the company, a General Meeting must be summoned to approve the dissolution agreement and to appoint the person who will be in charge of the procedure, i.e., the liquidator of the company.
- ▶ The dissolution agreement must be published in the “*El Peruano*” Official Gazette and in another newspaper with higher circulation so that its potential creditors become aware that the company will start a dissolution process.
- ▶ Then, the dissolution must be registered before the National Superintendency of Public Records (*Superintendencia Nacional de los Registros Públicos* or *SUNARP* in Spanish).



LIQUIDATION STAGE

- ▶ Once the dissolution and the liquidator have been registered, the company must send a notice to the National Superintendency of Customs and Tax Administration (*Superintendencia Nacional de Aduanas y de Administración Tributaria* or *SUNAT* in Spanish), so that the phrase “*en liquidación*” (in liquidation) can be added to its company name.
- ▶ The company will maintain its legal personality until its winding up has been registered with SUNARP; therefore, it will still be allowed to issue invoices or any other type of documents.
- ▶ The liquidator has a greater role because, together with the company's accountants, he or she will be responsible for reducing all financial statement items, specifically those from the statement of financial position and the statement of income, to zero. At this stage, the company must pay all its debts, collect all its receivables, and distribute the company's assets among the shareholders or partners, if applicable and as appropriate.
- ▶ A General Meeting must be held to approve the referred financial statements, the distribution of the remaining assets, the appointment of the person who will keep the company's books and documentation, and the address where said documents will be kept. In addition, said financial statements must be published.



WINDING-UP STAGE

- ▶ After distributing the Company's assets, the winding-up of the company must be registered with SUNARP.
- ▶ Once the winding-up has been registered, it will be necessary to request SUNAT to deactivate the Company's Tax ID number. The corresponding resolution approving this request must be issued within the subsequent 45 business days.
- ▶ Once the above resolution has been issued, the company will be wound-up, and will no longer be able to carry

Please note that the entire process takes approximately 8 months, provided that the company approves the necessary agreements in a timely manner, and that each employee involved, including the lawyers, accountants, and the liquidator, fulfills their role diligently.

Our legal services team has the knowledge and expertise necessary to carry out these procedures, aiming to provide our services from a legal, accounting, and financial perspective. If you have any questions or would like more information, please do not hesitate to contact us.

OUR SERVICES

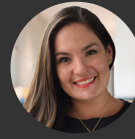
We have the right team to support our clients at all stages of their business growth, from their design to their incorporation and consolidation in the market.

Our services comprise multidisciplinary and dynamic advice with a comprehensive business approach, which allows our clients to be aware of the legal implications of their operations, considering all the different aspects of their business.

Thus, we stand out for providing highly efficient and customized services, ensuring our clients' full compliance with local legislation, and significantly reducing or eliminating any legal risk that may arise in the course of their business.

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