

Liquidation judiciaire

La liquidation judiciaire est destinée aux entreprises en état de cessation des paiements¹ et ne peuvent être évitées. Un liquidateur est chargé de vendre le patrimoine de la société ou de l'entrepreneur (si vous êtes en EI) afin de régler les créanciers. Cette procédure permet néanmoins de mettre fin à toute poursuite à l'encontre du dirigeant (sauf cas particuliers) et de supprimer l'insignifiance de une partie de vos dettes contractées dans le cadre de votre entreprise.

Qui peut en bénéficier ?

Toute entreprise étant en cessation des paiements. Si ce n'est pas le cas, vous devez faire un prêt amiable.

Qui peut demander l'ouverture de la procédure ?

Dans tous les cas, il faut que vous soyez en état de cessation des paiements. La loi fait obligation au dirigeant de faire une déclaration de cessation de paiements dans un délai maximum de 45 jours de la constatation de cet état sous peine de sanctions.

- **Le dirigeant** : vous devez faire une déclaration de cessation des paiements au Tribunal de Commerce et préciser que vous optez pour la liquidation judiciaire.
- **Un créancier**
- **Le procureur de la République**

Fonctionnement

Les effets sont différents selon que vous êtes en entreprise individuelle ou en société.

Entreprise individuelle : Un liquidateur est chargé de vendre tous les biens de votre entreprise.

Si l'actif professionnel ne couvre pas la totalité de vos dettes et que vous n'avez pas rendu mes ces troisièmes vos biens personnels, ils seront aliénés.

¹ Vous êtes en cessation des paiements lorsque votre actif disponible (forêts, des immobilisations, stocks, créances, comptes en banque) ne peut transférer immédiatement en liquidité) est inférieur à votre passif exigible (dettes dettes à terme, exigibles à défaut d'échéance). Une fois en cessation de paiement, le Tribunal de Commerce peut mettre votre entreprise en redressement judiciaire ou en liquidation judiciaire.

Manuel De La Liquidation

Philippe T'KINT



Manuel De La Liquidation:

De la liquidation judiciaire des sociétés Charles Guillaume Robert, 1896 **De la liquidation judiciaire des sociétés**
"Loi du 4 mars 1889" Charles Robert, 1896 Traité théorique et pratique de la liquidation judiciaire Maxime
Lecomte, 1890 **Examen critique et réforme du régime de la liquidation judiciaire considéré en lui-même et dans**
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la conservation des hypothèques et des privilèges valablement acquis Fernand Jouve, 1912 *Recueil général des lois*
et des arrêts, 1890 *Les Livres de L'année*, 1927 *Jurisprudence générale* Victor Alexis Désiré Dalloz, Armand
Dalloz, 1891 Le droit des ASBL Philippe T'KINT, 2013-04-12 Jamais le droit des ASBL n'a t analys au regard du droit des
obligations de fa on aussi syst matique Il ressort de cette analyse que les solutions d gag es par la doctrine et la
jurisprudence sauf rare exception sont bien souvent en accord avec celui ci m me si il n est pas explicitement invoqu Dans ce
premier tome une attention particuli re est apport e distinguer parmi les aspects civils et commerciaux les r gles communes
aux soci t s et associations de celles propres aux associations L auteur d gage celles qui proc dent de la personnalit juridique
de celles qui proc dent du droit des obligations et analyse les m canismes propres aux contrats de soci t s ou d associations
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