

Information on insolvency payments

What is an insolvency payment?

The insolvency payment is an alternative salary of the Agentur für Arbeit. It will be allotted for employees which wages and salaries were no longer paid by their employer. The fall into bankruptcy is the precondition for the disbursement of insolvency payments. The opening of the insolvency proceedings is decisive for the employees.

For which period of time will the insolvency payments be paid?

The payments will be allotted for a maximum duration of 3 months or rather 90 days before the opening of insolvency proceedings. Did the employer pay the wages and salaries less than three months then the period of insolvency payments will be shortened by that.

Example:

Opening of the insolvency proceedings on the 1st of July 2021, unpaid wages since April 2021. The period of the insolvency payments starts on the 1st of April 2021 and ends with the 30th June 2021. If the employer owes more than three months, for example wages of five months, there will be however only the last three months accepted with the insolvency payments. The employees have to file the other unpaid wages as a claim to the insolvency administrator's list of claims.

If the employment ends before the insolvency opening, the wages will only be paid for the last three months before the end of employment.

Which amount will the insolvency payments have?

The insolvency payments are equal to the net salary (Nettoarbeitsentgelt), which is the gross salary (wages /salaries in total) lowered of the legally deductions (tax and social deductions). The maximum of the insolvency payments is 6.900€ a month for the western parts and 6.450€ in the eastern parts in 2020 (Leistungsbemessungsgrenze). With the beginning of 2021 the maximum of the insolvency payments raises to 7.100€ in the western parts and 6.700€ in the eastern parts of Germany.

Which parts of the wage will be paid by the insolvency payments?

In the insolvency you only get paid your working hours. All parts of the wage, which are earned by the employee and are included in the insolvency payments, will be attested. Those are salaries, the working hours, the overtime work, and the extra pay for special work, the sick pay, and the benefit for VWL, tax free surcharges and the surcharge of the employee to private health care and nursing care.

Not included in the insolvency payments are compensations, holiday compensations, sacrificed compensations to direct insurances, payments to company pensions and all other parts of the wage, which were originated before the time of the insolvency payments.



Where and when do I get insolvency payments?

Responsible for the payment of the insolvency payments is the Agentur für Arbeit close to the head office.

The regular disbursement of the insolvency payments starts with the opening of the insolvency proceedings. The Agentur für Arbeit needs to have all the relevant information and statements in place, which takes about an extra two weeks until the payments are done.

Do I have to file for insolvency payments?

In general all employees which are entitled have to file for insolvency payments at the Agentur für Arbeit. The necessary petition can be filled out directly in the Agentur für Arbeit or it can be downloaded on the homepage.

The appropriate time-limit to apply for insolvency payments is two months after the insolvency opening. Only in special cases that time-limit can be extended by the Agentur für Arbeit. The request has to be made in the two months time-period, otherwise the claim is expired.

If the work contract ends before the opening of the insolvency, the employee can apply at the Agentur für Arbeit for an advance payment. The amount of the advance payment will be stated by the Agentur für Arbeit only.

Who certifies the insolvency payments?

The certification of the insolvency payments is done by the responsible insolvency administration. The administration can also forward this to a service provider in human resources.

Do I have to pay wage taxes for the insolvency payments?

Insolvency payments are payments without wage taxes. But you have a progression proviso (Progressionsvorbehalt) for these payments. The responsible Agentur für Arbeit passes out a statement about the amount of the payments. This statement has to be included in the income tax statement (Einkommensteuererklärung).

Am I insured for this time period?

All employees are insured in the preliminary insolvency proceedings. The social security contributions will be paid by the Agentur für Arbeit with the insolvency payments.

