

FAQ: company's "hibernation" mode

24.10.2023

Dear colleagues,

Many companies, while in the process of restructuring, experience a phase of reduced activity - this phase is often called "hibernation mode". Often the "hibernation" phase precedes the liquidation phase.

In this review, we have collected answers to the most frequently asked questions about "hibernation" mode.

What is a company's "hibernation" mode?

"Hibernation" mode is not an official legal term and represents the transfer of a company into an inactive state (suspension of business activities) while maintaining the existence of a legal entity.

What is important to consider when putting the company into "hibernation" mode?

- the company is still required to submit tax returns (including zero reporting) and pay taxes;
- the company must still have a CEO;
- the company must still have a legal address;
- for a company in "hibernation" mode, in any case, it will be necessary to plan liquidity to pay current (minimum) payments, which means the company will in any case have a (minimum) turnover on the account: expenses for maintaining accounting and tax records, software, wages, rent.

Is documentation required for "hibernation" mode?

Documentation for "hibernation" mode is not required. However, in some cases, in order to approve the procedure, the participants may prepare a resolution to suspend the company's activities. Such a resolution can be submitted to government bodies if requested, a local act (order) can be issued on its basis, etc.

Is it necessary to notify government authorities about the "hibernation" mode?

As a general rule, it is not necessary to send a notification to put a company into the "hibernation" mode.

However, when planning activities, it is important to take into account that the company must notify government authorities of other specified circumstances (if any).

So, for example, in the event of a reduction in staff when the company is put into the "hibernation" mode, the employment service must be notified 2 months in advance.

Is it necessary to notify counterparties about the "hibernation" mode?

As a general rule, it is not necessary to send any special notifications to counterparties.

However, if the company has existing open obligations, then it will be necessary to notify counterparties of the planned suspension or reduction in business activity. Please also note that the "hibernation" mode does not relieve the company from its obligations under agreements with counterparties and does not exclude the company's liability for violation of such obligations.

SWILAR 000

CEO
Daria Pogodina
Chistoprudny Boulevard, 5
101000 Moscow
Tel.: +7 (495) 648-69-44

swilar GmbH

CEO
Tobias Schmid
Erikaweg 32
D-86899 Landsberg / Lech
Tel.: +49 8191 9898377

CEO
Dr. Georg Schneider
Schlehenweg 14
D-53913 Swisttal
Tel.: +49 2226 908258

SWILAR T00

Director
Daria Pogodina
Nauryzbai Batyr Str., 102
050000 Almaty
T. +7 (717) 264 06 59

And what to do with the personnel?

It must be remembered that the “hibernation” mode is not a reason for non-payment of wages or dismissal of employees.

In this regard, it will be necessary to resolve personnel issues with the employee.

For a limited period of time, under certain circumstances, the company may impose a formal business interruption, reduce staff, or otherwise terminate employment contracts. However, in any case, it will be necessary to plan this process carefully to avoid the risks of violating labor laws.

If you have any other questions, we will be happy to answer them!

Contacts:

Maria Matrossowa, Project leader **swilar** OOO
M: maria.matrossowa@swilar.ru, T: + 7 495 648 69 44 (ext. 308)

Yulia Belokon, Deputy Project leader **swilar** OOO
M: yulia.belokon@swilar.ru, T: +7 495 648 69 44 (ext. 309)