

DISSOLUTION AND LIQUIDATION OF FIRMS ACCORDING TO INTERNATIONAL STANDARDS

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Abstract

This present, there are many firm closures due to bankruptcy this is the causes of the liquidation. Liquidation is the process of converting non-cash assets into cash, settling with creditors and distributing the remaining assets to ownership groups. This study aims to determine the cause of the dissolution and liquidation of the firm in accordance with international standards. As for the qualitative approach, the research is carried out by conducting an assessment of previous research and also from books that discuss the issue of firm dissolution and liquidation.

Keywords: Dissolution, Firms, Liquidation.

1. INTRODUCTION

The dissolution of Firm can occur due to bankruptcy in the business, this is causes the liquidation of the Firm. Definition of bankruptcy is a condition of a company experiencing a shortage and insufficient funds to run or continue its business. The result of bankruptcy is in form of business closure and ultimately the dissolution of the business or liquidation. Dissolution means the business operations comes to an end and also with the company's legal existence. Company or firm dissolution isn't always the result of the business failure, which can include insufficient resources, poor management, unstable economic condition, or unprofitability. While liquidation is aims to settle the assets of the company, firms or legal entity that is dissolved. Liquidation is carried out to dissolve a legal entity or company while bankruptcy doesn't cause such dissolution. Liquidation also refers to the process by which a company that has reached the limits is officially closed and its assets are then realized or converted into cash. This often happens because the company cannot pay its debts when they fall due, or when their liabilities exceed their assets.

2. LITERATURE REVIEW

Firm is a form of a company that founded by two or more people to expand their business or to make some profit (Haykal et al., 2020). The purpose of establishing firm is to expands the business and increase capital so that can be stronger and able to compete with the other companies (Biduri, 2019).

Firms are usually called partnerships, thus the owners of the firm are called members or allies or partners. In firm, of all members or allies are owners who are also the management, that are directly active in carrying out the company's business (Biduri, 2019). Mollengraff said, firm is a company that runs a company that is jointly owned, which is not a limited liability company. (Andriani, 2021). According to Beam (2000), dissolution of firm is the change in the relationship of the partners that can cause the legal termination of the partnership. With dissolution, the partnership can continue to run with a new agreement or the people can also terminate or dissolve business. This termination of a business partnership is also called liquidation.

Definition of liquidation is the process of converting non-cash assets into cash, settling with creditors and distributing the remaining assets to ownership groups (Simon, 2001).

According to Floyd A.Beams, liquidation is a process that includes converting non-cash assets into cash, recognizing the profit or loss from the process of converting non-cash assets into cash, paying off the firm's liabilities, and finally dividing all cash held by the firm to each member according to their capital balance (Andriani, 2021)

According to The Uniform Of Partnership Act (UPA), United States statute, section 31, events that causing firms dissociation is a firm is dissociated from a partnership upon the occurrence of any the following events (PL 2005, c. 543, Pt. A, 2).

1. Notice of express will to withdraw, the Firms having to notices of the partnership;s having notice of thr partner's express will to withdraw as a partner or on a later date specified by the partner.
2. Agreed event, an event agreed to in the partnership agreement as a causing the firms dissociation.
3. Expulsion pursuant to agreement, the firms expulsion pursuant to the partnership agreement.
4. Expulsion by unanimous vote, the firms expulsion by the unanimous vote of the other partners if :
 - A. It is unlawful to carry on thr partnership business with that partner.
 - B. There has been a transfer of all or substantially all of that partner's transferable interest in the partnership, ther than a transfer for security purposes, or a court order charging the partner's interest, that has not been foreclosed.
 - C. Within 90 days after the firms notifies a partner who is a limited liability company or corporation that it will be expelled because it has filed a certificate of dissolution or the equivalent or that it has been judicially or administratively dissolved, the applicable certificate of dissolution or its equivalent has not been revoked or it has not been administratively reinstated.

- D. Within 90 days after the firm notifies a partner who is a limited liability company or corporation that it will be expelled because its right to do business has been suspended by the jurisdiction of organization or incorporation, there has been no reinstatement of its right to do business by such jurisdiction.
- E. A firm that is a partner has been dissolved and its business is being wound up.
5. Expulsion by judicial determination, on application by the partnership or another partner, the partner's expulsion by judicial determination because:
 - A. The partner engaged in wrongful conduct that adversely and materially affected the partnership business.
 - B. The partner willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under section 1044; or
 - C. The partner engaged in conduct relating to the partnership business that makes it not reasonably practicable to carry on the business in partnership with the partner.
6. Partner action, the partners
 - A. Becoming a debtor in bankruptcy.
 - B. Executing an assignment for the benefit of creditors.
 - C. Seeking, consenting to or acquiescing in the appointment of a trustee, receiver or liquidator of that partner or of all or substantially all of that partner's property.
 - D. Failing, within 90 days after the appointment, to have vacated or stayed the appointment of a trustee, receiver or liquidator of the partner or of all or substantially all of the partner's property obtained without the partner's consent or acquiescence or failing within 90 days after the expiration of a stay to have the appointment vacated.
7. Partner who is individual in the case of a partner who is an individual
 - A. The partner's death.
 - B. The appointment of a guardian or general conservator for the partner.
 - C. A judicial determination that the partner has otherwise become incapable of performing the partner's duties under the partnership agreement.
8. Partner is trust or trustee, in the case of a partner that is a trust or is acting as a partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the partnership, but not merely by reason of the substitution of a successor trustee.
9. Partner is estate or personal representative of estate in the case of a partner that is an estate or is acting as a partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the partnership, but not merely by reason of the substitution of a successor personal representative.
10. Termination, of a partner who is not an individual, partnership, limited liability company, corporation, trust or estate.

3. METHODS

The descriptive approach was adopted in this study through the collection of the previous literature, this study also cites several things from another literature review. The purpose of this research is to find out how to dissolution and liquidation of firms according to international standards.

4. RESULT AND DISCUSSION

4.1. RESULT

Liquidation is carried out due to the sale of the company, the death of a partner member, or the occurrence of bankruptcy of the firm that causes dissolution. In process of liquidation, the owned assets will be sold. then the first income from the sale of assets will be used to pay the firm's debts to creditors, while the rest will be returned to all members of the firm in accordance with their respective balances and capital (Hery, 2015).

According to Andriani (2021), the firm's liquidation process can be described as follows:

1. Profit and loss calculation until liquidation.
This process is carried out if the liquidation carried out does not coincide at the beginning or end of the year. So it is necessary to know whether from the beginning of the period until the implementation of the liquidation the company makes a profit or suffers a loss.
2. Realization Process.
The realization process is the process of converting the non-cash assets of the partnership into cash. In this process, if the selling price of non-cash assets is not the same as the book value, a profit or loss on the sale of assets will arise. The profit and loss will be distributed among the partners in accordance with the profit and loss ratio.
3. Liquidation Process
The liquidation process is a payment process to entitled parties (first paid to external creditors, then internal creditors, then the rest to firm members).
From the description, it can be concluded that the liquidation process is closing and then making adjustments to the company's books. then the net profit or loss for the period must be transferred to the respective equity capital of the partners.
In liquidation, if the estimated capital of a partner reports a debit balance and the partner concerned has a loan balance, then the law allows for the right of offset, means that to offset part or all of the loan against a lack of capital.
Uniform Partnership Act (UPA), in liquidation to pay the partner's loan first and then pay the partner's capital. However, this regulation applies with one important limitation, namely if cash payments are made before all losses are known, the loan balance or part of the loan balance does not have to be paid.

There are some liquidation procedure, the sequences in the process are:

1. The opening and closing accounts are adjusted and then the profit and loss during the period is transferred to the account of each partner.
2. The assets are converted into cash (can be sold or bought by the partners themselves), if there is a difference between the book value and the selling price, the resulting profit or loss is divided among each partner in accordance with the agreement.
3. If it is found that the capital account of one of the partners has a debit balance, it can be closed with the balance of the debt, but if the balance is not there, the partner must deposit the capital again. And if it turns out that they don't have it, the debit balance must be borne by the other partner members.
4. If the cash is ready to be distributed, it is paid first to external creditors, after that it is used to pay the capital balance of each partner member.

The steps in liquidating the firms/partnership at the same time can also be carried out as follows:

1. Closing and adjusting the partnership opening account.
2. Carry out the realization process. If in the realization process a profit or loss arises, then the profit or loss is distributed to the members in accordance with the predetermined profit and loss sharing ratio.
3. Carry out the liquidation process :
 - a. The first thing that must be paid is outside creditor, if there is any remaining then it will paid to the member.
 - b. If there is one member who has a deficit capital balance and on the other hand he has a claim to the partnership, then the claim can be compensated for the deficit.
 - c. If one of the members has a deficit capital balance and he does not have a claim to the partnership, then temporarily, the other member (who has a positive capital balance) must close it first and in making payments to members it is necessary to make a list of supporting payments to members.

Based on the time and method of payment (distribution) of cash, liquidation can be grouped into 2 parts, namely:

1. Lump Sum Liquidation.
The things that need to be considered in lump sum liquidation are:
 - a. The distribution of losses on realized assets among the partners is carried out in the same way as the distribution of operating losses. If the realization of the asset results in a profit, the estimated partner's capital should be credited. Then if the assets are sold in large quantities, we can open a separate estimate to summarize the profits and losses that arise.
 - b. External creditors must be paid in full before the partners are paid for their loans and capital balances.
 - c. The partners' net interest in the assets of the partnership firm is determined before any payments to them are made. If the books report the amount owed by the company to the partners, as a result of a down payment or expense for goods or services, this balance will be offset by the partners' capital.
2. Installment Liquidation.
If the changes are not done all at once (gradual), then payments to creditors and members are also gradually. As for the steps in the installment liquidation is :
 - a. Closing and adjusting partnership opening accounts.
 - b. Carry out the realization process.
 - c. Carry out the liquidation process.

4.2. DISCUSSION

Munir Fuady (2002) , argued that liquidation is the last resort of the corporate/partnership restructuring process. Which means that if other restructuring measures are no longer possible, then liquidation of the company is considered. That way, the liquidation of the company is carried out if the company is no longer possible to be saved, so it must be dissolved.

Referring to Perpu No. 1 of 1998 concerning Amendments to the Law on Bankruptcy, liquidation is the management and settlement of bankrupt assets. The rules for distributing assets in partnership liquidation are made in stages according to priority :

1. The amount owed to the state.
2. The amount borrowed from creditors who are not partners.
3. The amount borrowed from partners other than for capital and profit.
4. The amount to be given to allies according to their holdings

Even though there is a priority order mentioned above, it does not mean that if there is cash that will be distributed to partners (cash distribution) it must be distributed to partners for the portion of the loan to the partners concerned, but at the time of liquidation, the position of the loan from partners/loans and the capital of the partners concerned are at the same level. to calculate the rights of the partner concerned. After going through the calculations contained in the cash payment schedule, the cash distributed to each partner is then differentiated based on the priorities mentioned above for each partner concerned.

5. CONCLUSION

The dissolution of the firm occurs due to the failure of the partnership to run it, this can be caused by bankruptcy. The dissolution carried out resulted in the liquidation of the firm. In process of liquidation, the owned assets will be sold. then the first income from the sale of assets will be used to pay the firm's debts to creditors, while the rest will be returned to all members of the firm in accordance with their respective balances and capital. There are two types of dissolution: The first is the dissolution of the partnership from a legal perspective (change of agreement letter/deed of establishment), but the company's activities continue, this is called dissolution. secondly the dissolution of the partnership by stopping the activities and closing the company or is called liquidation. Liquidation process is closing and then making adjustments to the company's books. then the net profit or loss for the

period must be transferred to the respective equity capital of the partners. And there are two types of liquidation, the first one is the lump sum liquidation and the second one is installment liquidation.

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