

# Guide to Debt Settlement Arrangements

O'Hanlon Tax Limited, 6 City Gate, Lower Bridge Street, Dublin 8 Tel: 01 604 0280 Fax: 01 604 0281 Eml: info@ohanlontax.ie

## What is a Debt Settlement Arrangement?

A Debt Settlement Arrangement (DSA) enables a debtor to reach agreement with their unsecured creditors. A DSA applies to a debtor who has unsecured debts in excess of €20,000 with no upper limit applying. The debts will be settled over a period of up to 5 years (although the period can be extended to 6 years in certain circumstances).

## Who can get a DSA?

In order to pursue a DSA, a debtor must

- Be insolvent, i.e. unable to pay debts as they fall due.
- Have one or more unsecured creditors.
- Be domiciled in Ireland, or in the past year been ordinarily resident, or had a place of business in Ireland.
- Obtained a statement from the PIP confirming that:
  - Information in the Prescribed Financial Statement is true and accurate
  - The debtor is eligible for a DSA
  - There is no likelihood that the debtor will become solvent in the next 5 years
  - If the debtor enters into the DSA there is a reasonable prospect of them becoming solvent in the next 5 years.

## Who cannot get a DSA?

An individual will not qualify for a DSA if:

- He has incurred 25% or more of his debt during the past 6 months;
- He has been the subject of a Debt Relief

Notice (DRN) now or within the past 3 years;

- He has been the subject of a Personal Insolvency Arrangement (PIA) now or within the past 5 years;
- He has been the subject of a DSA previously;
- He has been bankrupt or subject to a bankruptcy measure, or has been discharged from bankruptcy in the past 5 years;
- He has been the subject of a Protective Certificate issued in respect of a DSA in the past year.

## What Qualifying Debts are included?

Personal loans, Credit union loans, Business/commercial loans, Credit card, Store cards, Overdrafts, and Personal guarantees can be included in a DSA.

## What Debts are excluded?

Certain debts such as taxes & levies due to Revenue, local authority rates & charges, sums due to the HSE under the Nursing Home Support Scheme, social welfare debts and annual service charges due to the management companies re residences are excluded unless the creditor agrees to include them in the DSA.

## What Debts are unaffected by a DSA?

Secured debts, family maintenance payments, court fines in respect of criminal offences, liabilities arising out of personal injury or wrongful death claims and liabilities arising out of loans obtained by fraud cannot be included in a DSA.

## How does a debtor get a DSA?

The debtor will need to contact a Personal Insolvency Practitioner (PIP) in order to enter into a DSA. The PIP will seek a protective notification from the Irish Insolvency Service (ISI) and this will protect the debtor from legal proceedings by their creditors for a period of 70 days (which may be extended). A creditors meeting will then be called by the PIP and in order for the DSA to come in effect, 65% of the creditors in value must agree to the proposed arrangement.

## What is the effect of a successful DSA?

If successful, the debtor will be discharged from the debts which are specified in the DSA at the end of the period.

© O'Hanlon Tax Limited 2013



**Caveat:** These notes are intended as a preliminary guide to some provisions of the Personal Insolvency Act 2012. Formal advice should be obtained before any steps are taken to effect a personal insolvency arrangement.