

# **MERGING OR DISSOLVING A LEAGUE: GOVERNMENT FILING REQUIREMENTS**

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A League (or a separately incorporated local League Education Fund) holds its assets in trust for the specific purposes and activities stated in its Articles of Incorporation and Bylaws. Accordingly, if a local League (or Education Fund) either (1) merges with another League (or Education Fund), or (2) just dissolves on its own, there are required governmental reporting which must be done in addition to the internal approval processes required by LWV California and LWVUS. The purpose of this reporting is so the appropriate government agencies may be comfortable that the transaction was appropriate in light of the League or Education Fund's Articles, Bylaws and status as a "public benefit" organization.

There is little practical difference between a dissolution and a merger in the League situation, because after a merger, the remaining corporate shell of the League entity which is ceasing operations will typically be "dissolved" as it will go out of existence.

## **Internal Revenue Service**

The IRS must be notified about any merger or termination, which should be done as part of a terminating League's final return if it files a Form 990-EZ or 990. This return must report the organization's revenue and expenses through the date of merger or termination, which might well be a period less than a full year. Additionally, there are four specific places to report related to the termination of a League's separate existence:

- A. The ending date of the final accounting period must be reflected in the appropriate area at the top of Page 1 of Forms 990-EZ or 990.
- B. In Part B on the top left portion of Page 1 of these forms, there is a

box to be checked if the organization is terminated, which could be either by merger or dissolution.

- C. Acknowledgement of the termination must be noted in Part V, Question 36 of Form 990-EZ or Form 990, Part IV, Question 31 (for a dissolution) or 32 (for a merger).
- D. Schedule N (Pages 1 and 2 of the current copy is attached) must be completed and attached to the Form 990-EZ or 990—Part I for a dissolving League and Part II for a merging League. The form is available on the IRS website: <http://www.irs.gov/pub/irs-pdf/f990sn.pdf>.

The League's final return is then due by the 15<sup>th</sup> day of the 5<sup>th</sup> month following the merger or termination, not the normal due date based on the historic year end.

For the many Leagues which file the e-Postcard, Form 990-N, they would simply acknowledge their termination (by either dissolution or merger) by responding to a question on the form as to whether the organization has terminated or is terminating (going out of business). This website-based form can only be filed annually, using a League's normal year end, and does not permit the filing of short period returns. Further, there is no requirement to complete and file a Schedule N.

### **Franchise Tax Board**

The FTB also needs to be notified about any merger or termination, which normally can be done as part of a League's final return.

- A. The ending date of the final accounting period must be reflected in the appropriate area at the top of Page 1 of Form 199.
- B. Question D at the top left of Form 199 has questions about dissolution, merger, or similar occurrences.

The FTB does not have anything like the IRS' Form N. However, by standard practice it receives appropriate information

from the Secretary of State, which would include information about the dissolution or termination of a League.

### **California Attorney General**

Under California corporate law, an election to dissolve must be approved by a majority of all the members of a League or by a majority of the directors of an Education Fund. Following this action, the League/Education Fund should take the following steps before any of its remaining assets are distributed. The complete process involves the California Attorney General's Office, the Secretary of State and the Franchise Tax Board (as described above).

The Attorney General's office is responsible for oversight of public benefit organizations like the League organizations. Accordingly, this office could object to any transfer of a League's final assets which it might view as being inconsistent with the League's stated purpose, and so it is necessary to first seek a "dissolution waiver of objections" from that office. The request for the waiver must include the following:

- A. A letter signed by an officer or director of the terminating League detailing the organization(s) which will be receiving the League's final assets. For each intended recipient, the following information must be provided:
  - 1. Recipient's full legal name, address, telephone, California Corporate Number; and Federal ID Number.
  - 2. Itemized listing of assets to be distributed, by type and value
  - 3. Proposed date of distribution
  - 4. Any restrictions on the use of the assets to be distributed
  - 5. Recipient's Articles of Incorporation, as amended.

Note that the intended recipient's IRS exemption must be consistent with the dissolution provisions of the terminating League's Articles of Incorporation. Also, the intended recipient must be current with its own reporting obligations to the Registry of Charitable Trust, provided that it is required to register and report.

- B. A signed copy of the signed Certificate of Dissolution prepared for submission to the Secretary of State (see below).
- C. A copy of the terminating League's Form 990-EZ (or 990) for the last three accounting periods. If the League has been filing e-Postcards (Form 990-N) during this period, it must submit statements of receipts and disbursements, and a balance sheet, for the three (3) most recent accounting periods, as well as for the incomplete accounting period ending with the date of merger or termination.
- D. Endorsed-file copy of the Terminating League's Articles of Incorporation, and any amendments thereto.

The foregoing waiver request must be sent to:

California Attorney General's Office  
Registry of Charitable Trusts  
P.O. Box 903447  
Sacramento, CA 94203-4470

### **California Secretary of State**

A terminating League must file a Certificate of Dissolution with the Secretary of State's office. See the copy attached to this memorandum; or obtain the form at [http://www.sos.ca.gov/business/corp/pdf/dissolutions/corp\\_stkdiss.pdf](http://www.sos.ca.gov/business/corp/pdf/dissolutions/corp_stkdiss.pdf).

Please note that this filing can only be made if (a) the terminating League is current with all of its filings with the Franchise Tax Board and (b) its status is "active" in the records of the California Secretary of State. This status can be checked online at <http://kepler.sos.ca.gov/>.

The terminating League must then file an original and two copies of the "final dissolution packet," which should contain: (1) an executed Certificate of Dissolution; and (2) the letter from the Attorney General,

either waiving objections to the proposed distribution of the League's assets or confirming that the corporation has no assets. To facilitate the processing of this packet, it should also include a letter referencing the corporate name and corporation number of the terminating League, as well as its return address and telephone number. The packets should be sent by Certified Mail with Return Receipt Requested to