

501(c)(3) FAQs

- What exactly will we be asked to vote on at state convention?
The motion read as follows: The Board recommends and I move: To approve the transfer the operations and all or a portion of the assets of the League of Women Voters of Texas, and the enrollment of all of its members, into a new corporation *after such corporation receives recognition of 501(c)(3) status from the IRS and in the manner the Board determines is appropriate and in the best interests of the League.*

The motion passed.

- Since so many actions depend on whether the new corporation has 501(c)(3) status and whether a group exemption has been approved, why would local Leagues (LLs) be asked to vote on the consolidation before these two objectives have been achieved?

The principal reasons for passage of the motion now are:

- LWVTX is having increasing difficulty meeting its financial obligations, whereas LWVTEF is not. The combined organizations will be financially sound;
- Many LLs have expressed their wish to become 501(c)(3) as soon as possible;
- To streamline our operations and reduce time and effort, both in training and in workload, for both board members and staff;
- For the long-term cost savings that will come from having one organization rather than two; and
- Bylaws state that changes to the bylaws can only be made at Convention, leaving the status quo in place for another two years.

While the IRS has not yet reviewed our application, Tom Carson (the League's expert advisor on transition to 501(c)(3) status) tells us that none of the 90 Leagues he has helped so far has been denied, and we have used the same language to describe our activities as others that have been approved.

The group exemption letter is important, but doesn't heavily impact the decision to consolidate the state League's current structure. The IRS has stated that LLs will retain their 501(c)(4) status until they fail to file a tax return three years in a row. The IRS also says that loss of the group

exemption does *not* change the tax status of the LLs. They will still be exempt under 501(c)(4) rules and continue to file Form 990N or 990EZ as before, and they can still be exempt from state sales tax as before.

The group exemption application requires at least three local Leagues to be included in the application. Many local Leagues have expressed their desire to do this as soon as possible. Local Leagues have the option to wait until the group exemption is approved. They could also choose to apply for 501(c)(3) status on their own.

- Could LWVTX please provide specific recommendations on a timeline for LL actions, including:
 - What LL actions should be taken following a convention vote in favor of consolidation?

LL boards that wish to be part of the 501(c)(3) group exemption as soon as possible will need to complete the form that was provided to them, requesting to be part of the group and providing the information requested in the form. The form will be posted on the LWVTexas.org web site. **This application will not be submitted until LSLWV receives 501(c)(3) status**, because until that happens, LSLWV won't have any members. The intent, however, is to write the application in advance, so that when 501(c)(3) status is granted to LSLWV, the group exemption application can be mailed soon thereafter.

To be a member, however, LLs must have already completed the following:

1. Establish the same fiscal year (June 1-May 31) as the state League;
2. Create a dissolution clause in their bylaws that leaves all assets within the League, and all monetary assets with the state League or its successor, in order to settle all of the LL debts; and
3. Include a statement in the bylaws that the board will create a conflict of interest policy (the policy must be submitted with your request).

We also suggest modification of Article II. All of these requirements were in the handout distributed at your board meeting and subsequently by email.

Beginning June 1, LLs should begin tracking lobbying expenses. (Remember that “lobbying” means speaking directly with someone who has the power to right legislation [or a staffer] about how you want them to vote on a particular bill or ordinance. If you are merely sharing an opinion, without attaching that opinion to a bill, it isn’t lobbying.)

LLs may choose to remain 501(c)(4). If that is the path they choose to follow, no actions need to be taken. In January, LWVTX must notify the IRS that it no longer is the central organization for the 501(c)(4) group exemption letter. According to the IRS, the group members will retain their 501(c)(4) status.

- What LL actions should be taken following the IRS tax exempt status determination for the new LWVTX company?

The granting of 501(c)(3) status to LSLWV will have no direct impact on LLs. There will be many impacts on the state League, however.

The LL decision about joining the group exemption is dependent upon the decision of the respective boards, not the state League’s 501(c)(3) status. Because we don’t know when the state League will be notified of its tax-exempt status by the IRS, we can’t present a timeline. The only thing that is time-dependent is the most recent year’s financial data, and that will depend upon when a LL sends its request to be included to the state League.

- What LL actions should be taken following IRS approval of the group exemption?

501(c)(3) status will be granted from the date the application was received. LLs that are part of the initial application must prepare for that by tracking money spent on lobbying beginning the date the application is submitted.

LSLWV will notify the TX Comptroller’s office of the change in tax-exempt status. LLs will retain their sales tax exemption, with no action on their part.

After 501(c)(3) status has been granted, members of the group exemption can now

- Advertise that donations are tax-deductible.
- Apply for grants that are restricted to 501(c)(3) organizations.
- State that dues and any donations made to them may be made in the name of their League (rather than the state League if the state League holds their 501(c)(3) funds) and notify members and donors that their payments/donations are tax-deductible.
- Request that the state League send them the balance of their Ed Funds, to be deposited in their local bank account.
- Create League projects and hold forums without prior approval by the state League, and without writing reports in order to access their Ed Funds. Projects and forums must still adhere to national and state League guidelines.

IRS 501(c)(3) rules also require that any single donation of \$250 or more must be acknowledged by the recipient, either by letter or email. The acknowledgement must state that no goods or services were received, or state the value of any goods or services that were received. Likewise, any payment of \$75 or more that is partly a donation and partly for goods or services must receive an acknowledgment that states how much of the payment is a donation. See IRS Pub. 526 for more info.

Any LL that does not already have 501(c)(3) status or is not part of a 501(c)(3) group exemption will continue operating as before. Their Ed Fund will still be kept with the state League, and they must continue writing project proposals and reports in order to be reimbursed from their Ed Funds. Tax-deductible donations must still be made with the name of the state League (not the local League) on the checks. One change is that 100% of PMP can be paid from their Ed Fund.

- What LL actions should be taken following IRS denial of the group exemption?

If the IRS denies the group exemption for “procedural” reasons, the application fee will be returned, and the state League will refund any money paid by LLs towards this fee.

LLs will then need to apply for tax-exempt status on their own. The current fee is \$600, irrespective of your annual income. The state League will assist in any way that it is able.

The IRS has stated that LLs that aren't particularly concerned about being 501(c)(3) don't have to do anything. The status quo will be in force, and they will remain 501(c)(4).

- During the period prior to the IRS determination about group exemption for the new LWVTX company:
 - Exactly what will be different about LLs' operations?
Prior to approval of 501(c)(3) status of the group exemption, the only difference in LL operations will be that they must track lobbying expenses.
 - Will LLs be tax exempt?
LLs will retain their 501(c)(4) federal tax exemption until the 501(c)(3) group exemption is approved. If they have obtained exemption from sales tax from the Texas Comptroller's office, they will remain exempt from sales tax for purchases made for the use of the organization.
 - Will LLs be able to submit 990Ns?
Yes, as long as their gross receipts are less than \$50,000/yr (averaged over four years).
 - Will donations be tax deductible?
The IRS states that, once granted, donations will be deductible retroactive to the date of the application, but you won't know that the application has been approved until that occurs. For LLs that join a 501(c)(3) group exemption after its tax status has been approved, donations will be tax-deductible after the IRS receives notice that they have joined the group.
 - What, if any, changes are needed to the 501(c)(3) and 501(c)(4) bank accounts?
Once the IRS approves 501(c)(3) status for LLs (either through the group exemption or applying on their own), a check for LL Ed Fund money will be sent to the LL upon request, and that money can be deposited in your League's current bank account. Your EIN will not change. There is no tax exempt status attached to your bank account, so as far as your bank is concerned, there are no changes.
 - Who needs to be notified about what and when?

Once you have 501(c)(3) status, you will need to notify:

- Your members (their dues will be tax-deductible), and
- Your donors.
- If you have a web site or a Facebook page, you can make an announcement there if you choose to do so, but no other notices are required.

There is no required timeline for any of this. Notify your members when you mail them dues renewal notices. Notify your donors when you send them fundraising solicitations.

The Texas Comptroller's office must be notified of a change in tax status. If the group exemption is approved, then the state League will handle this. If each League must apply on its own for 501(c)(3) status, then you should write to exempt.orgs@cpa.texas.gov, and provide a copy of the IRS letter approving your exemption. Include your League name, your Texas taxpayer number, and a contact name with contact info.

- Why do LLs need to request to join the group exemption by 5/25 instead of waiting for the group exemption to be approved? Because of the decision to postpone transfer of membership until 501(c)(3) status has been approved, the 5/25 date no longer applies. Note, however, that we cannot apply for a group exemption without members of the group. For LLs that want to be part of the initial application, you are invited to send your request and the requested information as soon as you are able.
- How can LLs be expected to meet that 5/25 date when it requires a change of bylaws that must be approved by members at an annual meeting (as well as approval by state League)? You were given the information in early 2018 because for most LLs, that falls well before the 30-day window for informing your members prior to your annual meeting. Because the state League is suggesting the change, you don't need prior approval from the state. At this point, you can ask to join at any time, even after the application has been submitted. Any fees requested of LLs for inclusion in the group exemption will still apply.
- If group exemption is denied, should LLs collaborate on plans to hire a single lawyer to file tax exemptions, rather than each LL spending the money/time employing separate lawyers? If so, will LWVTX or a LL take the lead on this? How will the cost be split among LLs, collected, and paid?

If the group exemption is denied, you won't need to hire a lawyer. Each LL will apply on its own, but there is a vast amount of experience within the League as a whole to guide you through the process. For instance, Tom Carson has already created a template to follow, including boilerplate text to describe League activities. There are some parts that only the LL can provide, such as five years of financial data and a listing of the amounts that "disqualified persons" (board members and donors of more than 2% of your annual expenditures) have given to the organization. You also have to provide the names and addresses of all board members and other information specific to your League, such as a description of your fundraising activities. The state League plans to take the lead, as it has already done for one of its LLs.

Note: The state League hired a lawyer because, with a 501(c)(4) corporation and a 501(c)(3) trust, we needed legal guidance on the best way to proceed. By the time you are ready to apply, LLs will be following a well-worn path.

- Will LWVTX host a Facebook group or other mechanism for LLs to communicate with each other and LWV-TX during the transition?
The new board will tackle this request. We are currently leery of making a discussion of this sort public.
- Could LWVTX please provide a LL FAQ so that we can continue to ask questions that arise and get answers?
These FAQs will be posted on the Convention webpage with the opportunity to ask additional questions.
- Can a local League use their Ed Funds to pay the fee to join the group exemption or apply on their own?
Yes.