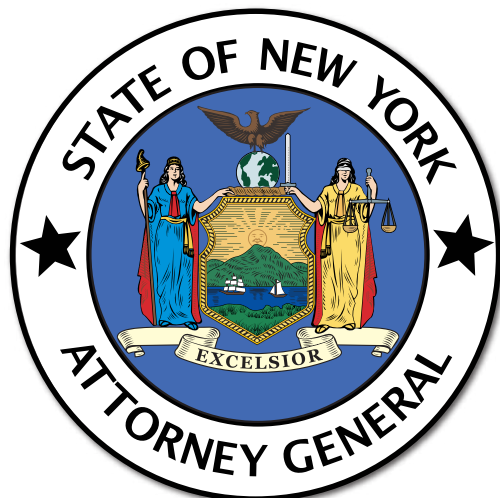


PROCEDURES FOR THE DISSOLUTION OF A NOT-FOR-PROFIT CORPORATION WITHOUT ASSETS



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**VOLUNTARY DISSOLUTION OF NOT-FOR-PROFIT CORPORATIONS
WITH NO ASSETS**

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This booklet is for dissolving Not-for-Profit corporations that meet the following criteria:

| |
|--|
| <input checked="" type="checkbox"/> The corporation has no assets or liabilities at the time of dissolution. |
|--|

Corporations that have assets to distribute or liabilities at the time of dissolution should use the booklet entitled “Voluntary Dissolution of Not-For-Profit Corporations with Assets to Distribute,” which is available on the Attorney General’s website at <http://www.charitiesnys.com>.

The information in this booklet is not a substitute for legal advice from an attorney but has been

drafted to provide guidance to not-for-profit corporations that are seeking to dissolve and the lawyers who represent them.

This booklet and other information of interest to not-for-profit corporations may be found on the Attorney General's Internet site: <http://www.charitiesnys.com>.

INTRODUCTION

The Attorney General's Charities Bureau prepared this guidance to assist not-for-profit corporations that have no assets or liabilities at the time of dissolution to fulfill the requirements for dissolution pursuant to Article 10 of the Not-for-Profit Corporation Law ("N-PCL").

Dissolving corporations that are required to be registered with the Charities Bureau must update their registration and annual filings prior to dissolution. *See* Appendix F for a summary of registration requirements.

NOTE: This booklet reflects changes to the Not-for-Profit Corporation Law that are included in the Nonprofit Revitalization Act of 2013.

* * * * *

SUMMARY OF PROCEDURES FOR A NO ASSET DISSOLUTION

Step 1:

The Board of Directors adopts a Plan of Dissolution ("Plan"). *See* Appendix B for a sample Plan. A quorum must be present and at least a majority of the directors present must vote for dissolution. Alternatively, the Board may adopt the Plan by unanimous written consent if not prohibited by the certificate of incorporation or by-laws. If there are fewer than three directors, the affirmative vote of all remaining directors is required to adopt the Plan. If only one director remains, that person should be identified as the "sole remaining director."

| Quick Statutory Reference Guide | |
|--|--|
| Board of directors' adoption and authorization of Plan of Dissolution | N-PCL §§ 1001(a), 1002(a) & 1002(b) |
| Quorum and required vote for board approval of Plan | N-PCL §§ 1002(a)(1)(i), 707, 708 & 709 |
| If there are fewer than the number of directors required for a quorum, the vote of the remaining directors must be unanimous | N-PCL § 1002(a)(1)(ii) |

Step 2:

If the corporation has members entitled to vote, after the board of directors has authorized the Plan, the Plan is submitted to the membership for approval. A vote of at least two-thirds of the members with a quorum present at a meeting is required for approval. Alternatively, the plan may be approved without a meeting by unanimous written consent of all the members entitled to vote.

If the organization has no voting members, *i.e.*, members who elect the board of directors, the Plan is deemed authorized upon adoption by the board.

| Quick Statutory Reference Guide | |
|--|-------------------------------------|
| Submission of Plan to members for approval | N-PCL § 1002(a)(2) |
| Quorum and required vote for membership approval | N-PCL §§ 1002(a)(2), 613(c) and 614 |
| Authorization requirements if there are no members | N-PCL § 1002(b) |

Step 3:

If approval of any governmental body or officer was required for the formation of the corporation, the corporation must get written approval of the dissolution from the same governmental body or officer. To determine whether any approvals are necessary, see N-PCL §§ 404(b)-(v) and 1002(c).

NOTE: The **original** of any required approvals must be attached to the original Certificate of Dissolution.

| Quick Statutory Reference Guide | |
|---|------------------------------------|
| Government approvals of Plan of Dissolution | N-PCL §§ 404 (b) - (v) and 1002(c) |

Step 4:

The corporation prepares a Certificate of Dissolution with a Legal Back. *See* Appendix C, Sample Certificate of Dissolution and Appendix D, Sample Legal Back. The Certificate of Dissolution confirms that, at the time of dissolution, the corporation had no assets and no liabilities. The Certificate of Dissolution must be signed by an officer, director, attorney-in-fact or another duly authorized person and must identify the name of such person and the capacity in which the person signs.

| Quick Statutory Reference Guide | |
|---|--------------------------------------|
| Preparation of Certificate of Dissolution with a Legal Back | N-PCL §§ 104(d) and 1003(a) |
| Attachment of Approvals to Certificate of Dissolution | N-PCL §§ 1003(b)(1) and 404(b) - (v) |

Step 5:

The corporation prepares a Petition to the Attorney General for Approval of the Certificate of Dissolution. *See* Appendix E, Sample Petition for Approval of the Certificate of Dissolution and Appendix G for the appropriate office of the Attorney General.

| Quick Statutory Reference Guide | |
|--|-----------------|
| Preparation of Petition for Approval of the Certificate of Dissolution | N-PCL § 1003(c) |

Step 6:

The corporation submits the following to the Attorney General:

- A. The Petition with all required attachments:
 - (i) a copy of the Certificate of Incorporation and any amendments,
 - (ii) the Plan of Dissolution with certification,
 - (iii) copies of any required approvals, and
 - (iv) the unanimous written consent of the board, if applicable.

- B. In a separate legal back, the **original** Certificate of Dissolution with the **original** of any

governmental consents, if required.

C. All required financial reports, including a final financial report. *See* Appendix F.

If acceptable, the Attorney General will place an endorsement on the original Certificate of Dissolution and return it to the corporation or to its attorney if submitted by an attorney.

| Quick Statutory Reference Guide | |
|---|-----------------|
| Verified Petition to the Attorney General | N-PCL § 1003(c) |

Step 7:

The organization must request a *Consent to Dissolution of a Corporation* from the New York State Department of Taxation and Finance (“Tax Department”). The process and the documentation you will need depend on whether your organization has been granted tax exempt status. Some charitable organizations may not have been granted tax exempt status by NY State.

The Tax Department is able to resolve many issues and retroactively grant the organization tax exemption.

The procedure preferred by the Tax Department is that you call (518) 485-2639, *before* submitting any documents, to confirm your organization’s tax exempt status and to find out what the Tax Department will require of your organization before it can be dissolved.

Depending on your organization’s status, you may be required to send the following documents to the Tax Department:

- *Application for Exemption from Corporation Franchise Taxes by a Not-for-Profit Organization* (From CT-247)
- Copy of your federal exemption approval letter
- A letter requesting authorization to dissolve the not-for-profit corporation

After confirming the documents required by the Tax Department, you should mail them to:

NYS Department of Taxation and Finance
Corporation Tax Dissolution Unit
W. A. Harriman Campus
Albany NY 12227

The Tax Department will review the documentation. If it meets all requirements, the Tax Department will send the corporation a *Consent to Dissolution of a Corporation*. If not, the Tax Department will inform you by correspondence of the additional information required.

Note - If your organization has done business in New York City and has incurred tax or other liabilities under the New York City Administrative Code, it will also need the consent of the Commissioner of Finance of New York City. A “Request for Consent to Dissolution” form is posted [here](#).

| Quick Statutory Reference Guide | |
|--|-----------------|
| Consent of the NYS Department of Taxation | N-PCL § 1004(a) |
| Consent of New York City Commissioner of Finance | N-PCL § 1004(b) |

Step 8:

The corporation (or its attorney) sends the original Certificate of Dissolution with the original NYS Department of Taxation and Finance clearance and the original of any required governmental body or officer consents, along with a check for the required filing fee¹ payable to the NYS Department of State to:

NYS Department of State
Division of Corporations
One Commerce Plaza - 99 Washington Avenue
Albany, New York 12231

Step 9:

The Department of State will send to whomever is identified as the filer on the certificate’s Legal Back a receipt indicating that the Certificate of Dissolution has been filed.

Step 10:

The corporation sends a copy of the Department of State’s receipt to the Attorney General. If the corporation was required to register with the Attorney General’s Charities Bureau, it is no longer obligated to remain registered and/or file annual financial reports.

Step 11:

The corporation files with the Internal Revenue Service a copy of its final report and copies of the Certificate of Dissolution and the Department of State’s receipt.

* * * * *

¹ Check N-PCL § 104-A(l) to determine the amount of the required filing fee.

APPENDIX A - CHECKLIST OF DOCUMENTS FOR A NO ASSET DISSOLUTION

Following is a list of the forms and documents necessary for a no asset dissolution:

___ Plan of Dissolution (Steps 1 & 2)

___ Attachments to Plan: (Step 3)

- All required governmental body and officer approvals.
- If the Plan was approved by unanimous written consent, a copy of the consent with all signatures.

___ Original Certificate of Dissolution (Step 4)

___ Attachments to Original Certificate of Dissolution (Steps 6 & 7):

- Endorsement of the Attorney General (placed on the Certificate by the Attorney General).
- Originals of all required governmental body and officer approvals.
- Legal Back (Required by the Secretary of State).

___ Petition to the Attorney General for Approval of Certificate of Dissolution (Steps 5 & 6)

___ Attachments to Petition for Approval of Certificate of Dissolution: (Step 6)

- Copy of the Certificate of Incorporation and all amendments.
- Copy of Plan of Dissolution with all Attachments.

___ Final Financial Report (and any other required financial reports) (Step 6)

APPENDIX B - SAMPLE FORM FOR A PLAN OF DISSOLUTION

Plan of Dissolution

of

(Name of Corporation)

The Board of Directors ("Directors") of (Name of Corporation) does hereby resolve (*if applicable* - and recommend to the members for approval) that the corporation be dissolved. The Directors agreed to this resolution at a special meeting duly convened on the ____ day of _____ (month) , 20__ , pursuant to notice given in accordance with law (or by unanimous written consent without a meeting). At the meeting, a quorum was present at all times, and the Directors considered the advisability of voluntarily dissolving the corporation. The majority **or** all of the Directors determined that dissolution was advisable and in the best interest of the corporation. They adopted the following plan:

1. (A) There being no members of the corporation, no vote of membership is required to approve this dissolution, and action of the Board of Directors is sufficient.

or

(B) Following resolution of the Board of Directors adopting a Plan of Dissolution, the board shall submit the plan to a vote of the members for approval.

2. (A) No approval of the dissolution of the corporation by any governmental body or officer is required.

or

(B) Approval of the dissolution must be obtained from the following government agencies and officers, whose approvals are attached:

- a. (Name of Agency or Officer) _____
- b. (Name of Agency or Officer) _____
- c. (Name of Agency or Officer) _____

3. If applicable: Since the date of its incorporation on (____ date ____), (name of corporation) has never been funded and has never had any assets. (NOTE: This statement applies only to corporations that have never received any funds or other assets from any source.)

4. The corporation has no assets or liabilities.

5. A Certificate of Dissolution shall be signed by an authorized director or officer and all

required approvals shall be attached thereto.

Certification

I, (Name of Officer) , (Title/Office) of the (Name of Corporation) hereby certify under penalties for perjury that a special meeting of the Board of Directors of the Corporation was duly held at (time) on (date) at (address) and the within Plan of Dissolution was duly submitted and passed by a (majority vote, unanimous vote or unanimous written consent) of the Board of Directors. (If the corporation has members add the following: "At a meeting of the members, held on (date, time and place of meeting). The Plan of Dissolution was approved by (at least a two-thirds vote with a quorum present or unanimous written consent.").

(Signature)

(Name of Officer & Title)

Dated the ____ day of (Month), 20____.

APPENDIX C - SAMPLE FORM FOR CERTIFICATE OF DISSOLUTION

Certificate of Dissolution

of

(Name of Corporation)

Pursuant to § 1003 of the Not-for-Profit Corporation Law

I, _____, the (Title) of (Name of Corporation) hereby certify:

1. The name of this corporation is _____. (If the original name was changed, add: "The corporation was originally named (Original Name of Corporation)."

2. The Certificate of Incorporation of (Name of Corporation) was filed by the Department of State of the State of New York on the ____ day of (month), (year).²

3. The names and addresses of each of the directors and officers of the corporation and the title of each are as follows:

| Name | Officer or Director/Title | Address |
|------|---------------------------|---------|
|------|---------------------------|---------|

4. Dissolution of the corporation was authorized by a (majority vote, unanimous vote or unanimous written consent) of the Board of Directors. If there are voting members add the following here: "Dissolution was then approved by the corporation's members." If approved by members, state the nature of the vote, e.g., at least a two-thirds vote with a quorum present, unanimous written consent. If there are no members, include a statement to that effect.

5. The corporation elects to dissolve.

6. At the time of dissolution, the corporation is a (charitable or non-charitable) corporation.

7. The corporation will file with the Attorney General a petition for Approval of the Certificate of Dissolution with the original certified Plan of Dissolution.

8. When the Board authorized (*if applicable* - and the members approved) the Plan of Dissolution, the corporation had no assets or liabilities and did not hold any assets required to be used for a restricted purpose.

9. Prior to the filing of this Certificate with the Department of State, the endorsement of the _____

² Consult the Department of State's Internet site - www.dos.state.ny.us - to verify the current name of the corporation and the date on which the original Certificate of Incorporation was filed.

Attorney General will be attached.

IN WITNESS WHEREOF, the undersigned has signed this Certificate of Dissolution of
(Name of Corporation) this ____ day of (Month), 20__ .

(Signature)

(Name of Signatory and Title)

APPENDIX D - SAMPLE LEGAL BACK FOR CERTIFICATE OF DISSOLUTION

Certificate of Dissolution

of

(Name of Corporation)

Pursuant to § 1003 of the Not-for-Profit Corporation Law

Filed by:

(Name)

(Address)

NOTE: The filer identified here will receive the approved Certificate of Dissolution and the filing receipt from the Department of State.

**APPENDIX E - SAMPLE VERIFIED PETITION TO THE ATTORNEY GENERAL
FOR APPROVAL OF CERTIFICATE OF DISSOLUTION**

-----X
In the Matter of the Application of
(Name of Corporation) : VERIFIED PETITION
For Approval of Certificate of
Dissolution pursuant to :
Section 1002 of the Not-for -Profit
Corporation Law. :
-----X

TO: THE ATTORNEY GENERAL OF THE STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
(Street Address)
(City/Town) , New York (Zip Code)

Petitioner, (Name of Corporation) by (Name and Title of Signatory) of the corporation, for its Verified Petition alleges:

1. (Name of Corporation) , whose principal address is located in the county of (Name of County) , was incorporated pursuant to New York’s Not-for-Profit Corporation Law (or Membership Corporation Law if applicable) on (Date of Incorporation). A copy of the Certificate of Incorporation (and all amendments) is attached.

2. The names, addresses and titles of the corporation’s directors and officers are as follows:

| Name | Director/Officer/Title | Address |
|------|------------------------|---------|
|------|------------------------|---------|

3. The purposes for which the corporation was organized are as follows:

(insert a description of the purposes of the corporation)

4. The corporation is a (charitable or non-charitable) corporation.

5. The Board of Directors of the corporation met pursuant to duly given notice on (date and time). At the meeting, a resolution was duly passed by a (majority, unanimous vote or unanimous written consent signed on (date of signature) by all of the directors of the corporation). The directors adopted a Plan and authorized the filing of a Certificate of Dissolution in accordance with Section 1003 of the Not-for-Profit Corporation Law. If the Plan was authorized by unanimous written consent, attach a copy of the consent to the Plan.

6. (A) The corporation has no members.

or

(B) The members of the corporation approved the dissolution by (at least a two-thirds vote with a quorum present or unanimous written consent). A copy of the certified resolution of the members approving the dissolution is attached.

7. A certified copy of the corporation’s Plan of Dissolution is attached.

8. The corporation has no assets or liabilities, and its final report showing zero assets has been filed with the Attorney General.

9. (A) No approval of the dissolution of the corporation is required by any governmental body or officer.

or

B. Approval of the dissolution of the corporation must be obtained from the following governmental bodies and officers, and copies of such approvals are attached as exhibits:

- a. (Name of Governmental Body or Officer) _____
- b. (Name of Governmental Body or Officer) _____
- c. (Name of Governmental Body or Officer) , etc.

10. With this Petition, the original Certificate of Dissolution is being submitted to the Attorney General for approval pursuant to Not-for-Profit Corporation Law Section 1003.

WHEREFORE, petitioner requests that the Attorney General approve the Certificate of Dissolution of (Name of Corporation), a not-for-profit corporation, pursuant to Not-for-Profit Corporation Law Section 1003.

IN WITNESS WHEREFORE, the corporation has caused this Petition to be executed
This ____ day of __ (month), 20 __, by

Signature

(Name of Signatory and Title)

Verification

STATE OF NEW YORK)

:SS.:

COUNTY OF _____)

(Name) _____, being duly sworn, deposes and says:

I am the ____ (Title) _____ of ____ (Name of Corporation) ____, the corporation named in the above Petition, and make this verification at the direction of its Board of Directors. I have read the foregoing Petition and know the contents thereof to be true of my own knowledge, except those matters that are stated on information and belief, and as to those matters I believe them to be true.

Signature

Sworn to before me this
____ day of ____ (month), 20__.

Notary Public

APPENDIX F - REGISTRATION REQUIREMENTS AND FINAL REPORTS

A not-for-profit corporation seeking to dissolve must be in compliance with the registration and reporting requirements of section 8-1.4 of the Estates, Powers and Trusts Law and/or Article 7-A of the Executive Law. The full text of both statutes as well as a summary of the registration and reporting requirements may be found on the Attorney General's Internet site at: <http://www.charitiesnys.com>.

If the not-for-profit corporation is subject to the registration and reporting requirements of section 8-1.4 of the Estates, Powers and Trusts Law and/or Article 7-A of the Executive Law, but has failed to comply, it must register, file annual financial reports (e.g., Attorney General's Form CHAR500 with federal form 990) for the last six years and pay all required filing fees.

If the not-for-profit corporation is subject to the registration and reporting requirements of section 8-1.4 of the Estates, Powers and Trusts Law and/or Article 7-A of the Executive Law, but has been exempt from filing annual financial reports, it must submit a summary annual report³ for the last six years. No filing fees are required to accompany such reports.

A not-for-profit corporation that is not subject to the registration and reporting requirements of section 8-1.4 of the Estates, Powers and Trusts Law and/or Article 7-A of the Executive Law must submit a summary annual report³ for the last six years. No filing fees are required to accompany such reports.

³ A sample summary annual report is provided on the following page.

Sample Financial Report for Dissolving Entities Not Otherwise Required to File Annual Reports

Note: This schedule is for informational purposes only and illustrates the type of information the Office of the Attorney General reviews regarding dissolving entities otherwise exempt from filing annual financial reports. Such entities may also submit financial reports maintained in the ordinary course of their operations that contain similar information.

Year ended

| | | | | | |
|-----|-----|-----|-----|-----|-----|
| / / | / / | / / | / / | / / | / / |
|-----|-----|-----|-----|-----|-----|

STATEMENT OF REVENUES & EXPENSES

| | | | | | | |
|----|---|--|--|--|--|--|
| 1 | Beginning cash balance | | | | | |
| 2 | Contributions received | | | | | |
| 3 | Investment income (interest, dividends) | | | | | |
| 4 | Rental income | | | | | |
| 5 | Gains/(losses) from sale of securities | | | | | |
| 6 | Net proceeds from sale of assets | | | | | |
| 7 | Other income (itemize) | | | | | |
| 8 | Total income (add lines 1-7) | | | | | |
| 9 | Salaries | | | | | |
| 10 | Legal fees | | | | | |
| 11 | Accounting fees | | | | | |
| 12 | Other expenses of dissolution | | | | | |
| 13 | Occupancy/Rent | | | | | |
| 14 | Contributions paid (itemize) | | | | | |
| 15 | Other expenses: (itemize) | | | | | |
| 16 | Total expenses (add lines 9-15) | | | | | |
| 17 | Ending cash balance (Line 1 + Line 8 - Line 16) | | | | | |

BALANCE SHEETS

| | | | | | | |
|----|--|--|--|--|--|--|
| 18 | Cash, savings, investments | | | | | |
| 19 | Other assets (itemize) | | | | | |
| 20 | Total assets (Line 18 + Line 19) | | | | | |
| 21 | Total liabilities (itemize) | | | | | |
| 22 | Net assets or fund balances (Line 20 - 21) | | | | | |

**Appendix G - Offices of the Attorney
General and the counties covered by each:**

ALBANY - New York State Attorney General
Charities Bureau

The Capitol
Albany, NY 12224-0341
518-776-2160

Counties: Albany, Columbia, Fulton, Greene,
Hamilton, Montgomery, Rensselaer, Saratoga,
Schenectady, Schoharie,
Warren and Washington (note: Sullivan and Ulster for
trusts and estates matters only)

BINGHAMTON

New York State Attorney General
Binghamton Regional Office
44 Hawley Street, 17th Floor
Binghamton, NY 13901-4433
607-721-8771

Counties: Broome, Chemung, Chenango, Delaware,
Otsego, Schuyler, Tioga and Tompkins

BUFFALO

New York State Attorney General
Buffalo Regional Office
Main Place Tower - Suite 300A
Buffalo, NY 14202
716-853-8400

Counties: Allegheny, Cattaraugus, Chautauqua, Erie,
Genesee, Niagara, Orleans and Wyoming

NASSAU (not for trusts & estates matters)

New York State Attorney General
Nassau Regional Office
200 Old Country Road, Suite 240
Mineola, NY 11501-4241
516-248-3302

Counties: Nassau (note: trusts and estates matters are
handled
by NYC)

NEW YORK CITY

New York State Attorney General
Charities Bureau
Trusts & Estates Section
120 Broadway, 3rd Floor
New York, NY 10271-0332
212-416-8401

Counties: Bronx, Kings, New York, Queens and
Richmond
(note: NYC also handles Dutchess, Nassau, Orange,
Putnam, Rockland, Suffolk and Westchester – trusts
and estates
matters only)

PLATTSBURGH

New York State Attorney General
Plattsburgh Regional Office
43 Durkee Street - Suite 700
Plattsburgh, NY 12901-2958
518-562-3282

Counties: Clinton, Essex and Franklin

POUGHKEEPSIE (not for trusts & estates matters)

New York State Attorney General
Poughkeepsie Regional Office
One Civic Center Plaza - Suite 401
Poughkeepsie, NY 12601-3157
845-485-3900

Counties: Dutchess, Orange, Sullivan and Ulster (note:
Dutchess and Orange County trusts and estates matters
are handled by NYC; Sullivan and Ulster County
trusts and estates matters are handled by Albany)

ROCHESTER

New York State Attorney General
Rochester Regional Office
144 Exchange Boulevard
Rochester, NY 14614-2176
716-546-7430

Counties: Livingston, Monroe, Ontario, Seneca,
Steuben, Wayne and Yates

SUFFOLK (not for trusts & estates matters)

New York State Attorney General
Suffolk Regional Office
300 Motor Parkway
Hauppauge, NY 11788-5127
631-231-2424

Counties: Suffolk (note: trusts and estates matters are
handled by NYC)

SYRACUSE

New York State Attorney General
Syracuse Regional Office
615 Erie Blvd. West, Suite 102
Syracuse, NY 13204
315-448-4800

Counties: Cayuga, Cortland, Madison, Onondaga and
Oswego

UTICA

New York State Attorney General
Utica Regional Office
207 Genesee Street, Room 508
Utica, NY 13501-2812
315-793-2225

Counties: Herkimer and Oneida

WATERTOWN

New York State Attorney General
Watertown Regional Office
Dulles State Office Building
317 Washington Street
Watertown, NY 13601-3744
315-785-2444

Counties: Jefferson, Lewis and St. Lawrence

WESTCHESTER (not for trusts & estates matters)

New York State Attorney General
Westchester Regional Office
44 South Broadway
White Plains, NY 10601
914-422-8755

Counties: Putnam, Rockland and Westchester (note:
trusts and estates matters are handled by NYC)