Members' Voluntary Liquidation Fact Sheet

Slaven Torline

Members' Voluntary Liquidation Overview

A members' voluntary liquidation or MVL, is a liquidation of a solvent company initiated by shareholders for the purposes of winding up the Company and distributing its assets in accordance with the Company's constitution. The members resolve by special resolution at an extraordinary meeting to place the company into liquidation and appoint a liquidator.

Objective of a Members' Voluntary Liquidation

The objective of a MVL is to:

- wind up the affairs of a company; and
- distribute its surplus assets to its shareholders.

The company must cease to carry on its business except insofar as is the Liquidator deems it necessary for the beneficial disposal or winding up of the business. Upon conclusion of a MVL, the company ceases to exist.

Role of a Members Voluntary Liquidator

Up the appointment, the liquidator takes full control of the Company's business and the powers of the directors and other officeholders are suspended.

For more MVL info:
slaventorline.com.au

Length of a MVL

The length of a MVL is dependent upon the time it takes for the company's tax affairs to be brought up to date to allow the liquidator to obtain tax consent from the Australian Taxation Office to pay distributions. As a rule they usually take between 6 to 9 months to complete.

Steps in a MVL

1. Declaration of Solvency

The first step in commencing an MVL is that a majority of the directors must make a Declaration of Solvency (DoS) stating that they believe the company will be able to pay all its existing and contingent liabilities in full within 12 months of the commencement of the winding up.

The DoS must be lodged with ASIC prior to the resolution for winding up being passed by the members.

2. Resolution for winding up

After the DoS has been lodged, the company's members must pass a special resolution winding up the Company. All members must have at least 21 days' notice (in writing) of the meeting to vote on the special resolution to wind up, although they can consent to shorter notice by agreement. 75% of the company's members in attendance at the meeting must vote in favour of the special resolution to wind up the company. The members also appoint a liquidator or liquidators and approve his or her remuneration. The winding up begins from the date the special resolution is passed.

3. Liquidator winds up company's affairs

The liquidator or liquidators undertake to wind up the Company's affairs and distribute the assets of the Company to the members. The liquidator is required to obtain consent from the Australian Taxation Office and call for claims by any creditors prior to paying surplus cash or transferring assets shareholders. The liquidator is also required to lodge certain documents with ASIC.

4. Finalisation of liquidation

Once the liquidator has distributed the company's assets to its members, he or she will lodge a final return with ASIC. The Company will be de-registered three months after the final return is lodged, at which time it will cease to exist.

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