

Comparing a 501(c)(3) to a 501(c)(7)

The following information has been gleaned from the IRS web site and other legal sources to provide me a better understanding of just what the differences are. I have come to believe SMARC is more of a **501(c)(3)** than a **501(c)(7)** entity.

<p>501(c)(3) organizations must spend their income on activities that further their exempt purpose, which is a “charitable” cause. 501(c)(7) social clubs’ exempt purpose does not have to be charitable, but it must be only focused on social or recreational and non-profitable purposes. Membership must be limited.</p>
<p>A 501(c)(3) is considered a charity, and the IRS allows donors to take a tax deduction for contributions of goods, cash, and other assets.</p>
<p>Essentially, a 501(c)(3) organization helps the greater good, while a 501(c)(7) organization pools a group of people's resources for the group's own “social or recreational purposes” per IRS regulations.</p>
<p>A 501(c)(7) organization is organized and operated for the social or recreational purposes of a group of people. Guests are allowed but, however members must be dues paying.</p> <ul style="list-style-type: none">• A 501(c)(7) organization must limit its membership.• A 501(c)(7) is organized for pleasure, recreation, and other non-profitable purposes.• Almost all activities of a 501(c)(7) must further these purposes.• A 501(c)(7) must provide the opportunity for members to commingle and engage in personal contact.• A 501(c)(7) must be supported by membership fees, dues, and assessments.• A 501(c)(7) organization's net earnings can't benefit any individual who has a personal and private interest in its activities.• A 501(c)(7) must not claim to provide goods and services to the general public.
<p>A 501(c)(7) organization' facilities generally are open only to its members (and possibly members' guests), while a 501(c)(3) organization' facilities are typically open to the public, though some restrictions are possible, ie., an FCC License could be a requirement.</p>
<p>Both types of organization are exempt from federal income tax. Charitable donations to a 501(c)(3) organization are tax-deductible to the donor, while donations to a 501(c)(7) organization are typically not tax-deductible to the donor.</p>
<p>How to change from 501(c)(7) to 501(c)(3). There is a set procedure an organization needs to follow to change its status. One way is to establish a new 501(c)(3) and dissolve the 501(c)(7). Another option is to consult with a professional specifically familiar with applicable federal exemption law. The new organization must satisfy the provisions of a 501(c)(3) plus related regulations, then amend formation documents to conform with “c3” requirements. It may also be necessary to submit a Form 1023 application.</p>
<p>Bylaws are not required for a 501(c)(7) to change to a 501(c)(3), however it does make filing easier as the IRS can easily see the plan for the organization and how organization meets requirements.</p>
<p>THE MAJOR DUTIES OF A NONPROFIT (501(c) BOARD OF DIRECTORS</p> <p>A nonprofit's Board of Directors functions as the governing body of the nonprofit and has overall responsibility for the organization. The role of the Board of Directors is to act as a group making decisions to further the purpose of the nonprofit.</p>

Board Members' Duty of Obedience A **501(c)** board member must be faithful to the nonprofit organization's mission. He or she cannot act in a way that is inconsistent with the organization's goals. The board shall manage donated funds to fulfill the organization's mission. Specifically, Board Members shall:

- Make sure that the organization follows the law.
- Approve all key contracts.
- Attend most board meetings, thus indicating a dedication to the organization.
- Make sure the organization remains financially solvent by evaluating financial policies, approving budgets, and reviewing financial reports.

Board Liabilities for all Non-profit Organizations

- An incorporated entity is responsible for its debts. In the vast majority of circumstances, judgments imposed on a nonprofit by a court of law have to be paid by the organization, not individual directors.
- The bylaws of most nonprofits contain a promise to indemnify board members to the full extent permitted under the relevant state's nonprofit corporation law, for any statement, vote, decision or failure to act because of their role as a director or officer of the organization.
- **Board members** who act with good faith and exercise due care are generally shielded from personal liability for the decisions they make while serving on a board.
- The potential for an organization to be held legally responsible for its acts or omissions is a constant companion of every nonprofit mission. And as guardians of a nonprofit's mission as well as its assets, the
- **The board has a special responsibility to deliberate and act with care.** Doing so not only increases the quality of the decisions made by the board, but it also reduces the organization's exposure to legal claims. Armed with the resolve to be adequately prepared for committee and board meetings and the courage to speak up, every member of the board can also reduce the less likely, but still present risk of personal liability.

The following documents are generally required to request **501(c)(3)** status:

- Nonprofit charter (articles of incorporation)
- Nonprofit internal regulations (this is normally called the bylaws, but it could go by other names).
- Nonprofit policies (the IRS likes **501(c)(3)s** to have a conflict-of-interest policy, although it is not mandated).
- SS-4 or electronic EIN application. The EIN, or employer identification number, is the tax identification number of the nonprofit. It is required to apply for **501(c)(3)** recognition.
- IRS Form 1023 or 1023-EZ
- A variety of resolutions. Formal resolutions need to be passed to ratify the charter, elect directors, appoint officers, adopt the internal regulations and policies, authorize application for an EIN, and authorize application for **501(c)(3)** recognition. Depending on how the nonprofit

was set up, these can take different forms, including the "statement of the incorporator," "unanimous consent of the members," "unanimous consent of the directors," "minutes of meeting of the members," "minutes of meeting of the directors," etc. Multiple forms may be required, depending on applicable law.

Generally, for a nonprofit corporation, **only the unanimous consent of the directors needs to be signed by the entire board of directors**. The charter can be signed by the incorporator, the internal regulations and policies can be certified and signed by the secretary, and the SS-4 and 1023 can be signed by just one principal officer.

The documents required to maintain **501(c)(3)** status are as follows:

- 990-Series Form. This is the annual tax-report. The main ones are 990-N, 990-EZ, 990 and 990-PF. The form that can or must be used depends on whether the nonprofit is a private foundation (must use 990-PF), or otherwise the financial status of the organization (990-N, 990-EZ and 990, in increasing financial strength). If the organization has taxable income, it must also file 990-T.
- Periodic reports. Some states require nonprofits to file periodic reports. For example, Delaware requires a nonprofit corporation to file an annual report to maintain its status. Strictly speaking, it is not a 501(c)(3) requirement, but rather an existence requirement. If the nonprofit fails to file an annual report, where needed, it could be administratively dissolved, meaning that the nonprofit will cease to exist. No nonprofit = no **501(c)(3)**.

Recordkeeping Requirements for all 501(c) Organizations All organizations shall maintain financial records showing actual income and disbursement for a period of at least 3 years. Records of decision making by the Board shall be available when requested by the IRS, the State or the general public.

An organization that otherwise qualifies for **501(c)(3)** status and whose gross receipts are usually less than \$5,000 per year, is not required to file Form 1023 in order to be tax-exempt under **Section 501(c)(3)** of the Internal Revenue Code.

If a **501(c)(7)** is dissolved, its assets cannot be divided among its members, just as with any other **501(c)** corporation as this would be considered "private inurement" which is illegal.