

What is a Non Profit Organization?

Non Profit Directors and Officers are legally responsible for the day-to-day decision-making of their organization. These board members can be held personally liable for any breach of duty.

WHAT IS A NON PROFIT ORGANIZATION?

- ▶ A Non Profit Organization is defined as an organization founded to provide a socially desirable service with no intention to return financial benefits to its members. To meet this criteria, an organization must establish that it is not organized or operated for the benefit of private interests. Unlike for profit groups, non profits, including all charities, are not allowed to have shareholders with whom to share profits. In case of uncertainty, the general rule is that an organization's charter (for profit vs. non profit) is determined by the authority it may exercise under that charter. Additionally, what an organization actually does is of more importance in determining its status than what it professes to be.
- ▶ One of the benefits to being a non profit organization is a tax-exempt status. Non profits are organized under Section 501 (c) of the Internal Revenue Code. These organizations are exempt from federal, and usually state corporate taxes, if the proper rules and regulations are followed. There are several sub-groupings under section 501(c) that address a variety of charitable and social service organizations.
- ▶ Many 501 (c) organizations must file a FORM 990 – Return of Organization Exempt From Income Tax Form with the IRS in order to maintain tax exempt status. There are exceptions to this rule that include churches as well as organizations with total revenues less than \$25,000. (Form 990 may often be a good underwriting tool to help distinguish non profit groups from for profit organizations).

SEGMENTS OF NON PROFITS

There are three (3) distinct types of Non Profit Corporations:

1. The Public Benefit Corporation

Formed for public or charitable purposes to benefit the general segment of society. These non profits usually have no members thus the Directors and Officers generally are seen as serving the public as a matter of trust.

▶ Charities and Social Service Groups

Most charities are non profit organizations. Special exposures for charities include the failure of a fundraising event which can result in claims filed against the charity by individuals who gave grants or money.

- Examples of Social Service Groups/Charities: Civic Groups, Social Welfare Organizations, Foundations

▶ Education

Schools are usually administered by a board of governors/trustees comprised of teachers and external individuals, such as parents. If a fee-paying school goes out of business, the board may be at risk not only from creditors and banks but also from parents who may sue for the return of fees and tuition. Additionally, potential risks include claims regarding damage to children's education.

- Examples of Educational Organizations: Day Cares, Montessori Schools, Private Schools, Charter Schools

What is Non Profit Organization? (cont'd)

2. The Religious Corporation

Formed primarily or exclusively for religious purposes and not for private benefit. They are substantially less regulated than public benefit corporations, both in fiscal matters and under corporate law.

▶ Religious Organizations

Religious institutions are usually governed by a Board of Directors comprised of clergy and members of duly elected, appointed or constituted governing bodies of the religious institution. These include individuals responsible for making the governing decisions of the organization.

- Examples of Religious Organizations: Churches, Synagogues, Mosques

3. The Mutual Benefit Corporation

Formed primarily to serve its members. They feature many of the same attributes as the for-profit corporation except that the law prohibits a mutual benefit corporation from distributing profits to its members.

▶ Housing and Trade Associations

Associations have a duty owed to their members. The associations have a standard of care to maintain, as well as diligence in the management of their funds.

- Examples of Housing and Trade Associations: Condominium and Homeowner Associations, Low Income Housing, Trade Associations, Professional Associations

▶ Social Clubs

Social clubs share a common theme – to further the social interests of their members. Funding comes almost entirely from membership dues. Full-time officials who report to a board of elected club members run most clubs. The committee members and the chairman, who effectively run the club, are unpaid volunteers.

- Examples of Social Clubs: Fraternal Clubs, Country Clubs, Sport Clubs, Recreation Clubs

▶ Healthcare

Healthcare organizations are administered by a Board of Directors comprised of employees and other individuals from the public. The latter are there to protect the interest of patients and other external parties who contribute to the organization. These individuals usually serve on an unpaid volunteer basis however; as trustees, they are still exposed to liability.

- Examples of Healthcare Organizations: Mental Health Organizations, Hospices, Home Health Care Services, Clinics