



501(c)(3) versus 509(a)(1). What is the difference between these two statuses?

Section 501(c)(3) is the section of the Tax Code that describes religious, scientific, literary, educational and other charitable organizations exempt from federal income tax. All charities are further subdivided, however, between public charities, which receive broad public support from gifts or fees, and private foundations, which receive almost all of their income (other than investment income) from a very narrow group of persons, such as a single individual, family or corporation. The Code provides more restrictions on the activities of private foundations than on public charities.

Every charity is deemed to be a private foundation unless it satisfies the IRS that it meets one of the definitions of a public charity under Section 509(a). Section 509(a)(1) primarily includes churches, schools, hospitals, and other organizations that receive their public support primarily from gifts, grants and contributions from a broad group of people. Section 509(a)(2) covers organizations that receive their support from a combination of gifts, grants and contributions and fees for their exempt services. The methods of calculating these public support levels can be tricky.

Section 509(a)(3) covers “supporting organizations” that support other public charities, governmental units and certain other exempt organizations. They receive public charity status because of the relationship, without regard to the source of their income. Congress has recently enacted some significant limitations on supporting organizations.

Therefore, it is not 501(c)(3) versus 509(a)(1), but 501(c)(3) and 509(a)(1).

