

501(c)(3), 508, 509(a)(3), . . . What Do These Numbers Mean?

A lot of numbers are referred to when talking about tax exempt organizations. It helps to understand the origin of those numbers. Congress makes the laws that control taxes. These are set forth in the Internal Revenue Code (“the Code”). The Code devotes many sections to “tax exempt organizations.” The number and variety of such organizations is larger and more complex than most people realize. Here are some of the most relevant sections for most organizations:

- Section 501(c)(3) organizations are by far the most prevalent of tax exempt organizations. Organizations covered under 501(c)(3) include both *foundations* and *public charities*.
- Section 508 of the Code provides that all tax exempt organizations are presumed to be private foundations. That’s how the IRS will identify a tax exempt organization, unless it can prove otherwise.
- Section 509 of the Code identifies four types of *public charities* -- a term which is not part of the Code but which is used by most to collectively identify the following four types of 509(a) organizations, which are not private foundations:
 - Section 509(a)(1) organizations may be grouped into two types: (a) those that are inherently public in nature, among them: schools, churches, hospitals and governmental units; or (b) those that receive a substantial part of their support from grants from governmental units or from contributions from the general public, or a combination of those – these organizations must meet a “one-third public support test” or a “10% facts and circumstances test”.
 - Section 509(a)(2) organizations can be the same as the second group of 509(a)(1) organizations discussed above, except that the support test is different – an organization may include for the purposes of support funds received from the general public through gifts, grants, contributions, or membership fees and gross receipts from certain sales and services provided by the organization that are related to the organization’s purpose.

- Section 509(a)(3) organizations are nicknamed *supporting organizations*. That is because these organizations operate exclusively for the purpose of supporting one or more 509(a)(1) or (a)(2) charities. There are a few additional requirements: (a) they must be controlled in certain specific ways (not discussed here) by one or more of the (a)(1) or (a)(2) organizations; and (b) they must not be controlled directly or indirectly by most types of *disqualified persons* (an IRS term for people who can exert substantial influence over an organization because of their relationship).
- Section 509(a)(4) organizations are organized and operated exclusively for testing for public safety.