

501(c)(3) v. 501(c)(7)

Which Non-Profit Status is right for us?

501(c)(1)	Corporations Organized under Act of Congress (including Federal Credit Unions)
501(c)(2)	Title Holding Corporation For Exempt Organization
501(c)(3)	Religious, Educational, Charitable, Scientific, Literary, Testing for Public Safety, to Foster National or International Amateur Sports Competition, or Prevention of Cruelty to Children or Animals Organizations
501(c)(4)	Civic Leagues, Social Welfare Organizations, and Local Associations of Employees
501(c)(5)	Labor, Agricultural, and Horticultural Organizations
501(c)(6)	Business Leagues, Chambers of Commerce, Real Estate Boards, etc.
501(c)(7)	Social and Recreational Clubs
501(c)(8)	Fraternal Beneficiary Societies and Associations
501(c)(9)	Voluntary Employees Beneficiary Associations
501(c)(10)	Domestic Fraternal Societies and Associations
501(c)(11)	Teachers' Retirement Fund Associations
501(c)(12)	Benevolent Life Insurance Associations, Mutual Ditch or Irrigation Companies, Mutual or Cooperative Telephone Companies, etc.

https://www.charitynavigator.org/index.cfm?nav=content_view&cpid=1558

At a cursory glance of non-profit options, it's understandable why one would think OutWorlders could be a 501(c)(7).

In 2002-2003, OutWorlders formed a committee to research non-profit statuses and decided on a 501(c)(7) status.

In 2019, I see OutWorlders as more of a **charitable organization**, providing services to the community at little-to-no cost to attendees.

Exemption Requirements - 501(c)(3) Organizations

Organize for exempt purposes. Be charitable, and eliminate prejudice and discrimination.

<https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-section-501-c3-organizations>

The first requirement of a 501(c)(3) tax exempt organization is that it must be organized for exempt purposes.

Must be **charitable**, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals.

Charitable is defined as "relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; **eliminating prejudice and discrimination**; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency."

<https://www.irs.gov/charities-non-profits/charitable-organizations/exempt-purposes-internal-revenue-code-section-501c3>

Of all the options available, OutWorlders aligns with being a charitable organization in that our events are or could be towards eliminating prejudice and discrimination.

OutWorlders' Purpose

The purpose of this organization shall be to **provide an inclusive and friendly environment for lesbian, gay, bisexual, transgender, queer, and diverse gender and sexual identities (LGBTQ+) in the community** within forums including gaming as well as science fiction, fantasy, and horror media. This organization provides activities and programs that create community involvement within the LGBTQ+ community.

Even our purpose as defined in the bylaws state that we seek to provide inclusive and friendly environments.

Exemption Requirements - 501(c)(3) Organizations

Organize for exempt purposes. Be charitable, and eliminate prejudice and discrimination.

Don't benefit private interests. No part of net earnings may go to any individual or stakeholder.

Don't lobby. There is an acceptable limit allowed to 501(c)(3)'s, but until those limits are understood, just don't do it.

<https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-section-501c3-organizations>

There are two other requirements of being a 501(c)(3) organization, totaling 3 things we'd have to do to qualify for this status.

Exemption Requirements - 501(c)(7) Organizations

Organize for exempt purposes. Organize for pleasure, recreation, or similar. Games are fun.

Don't discriminate. Policies may not discriminate based on race, color, or religion.

Limit income sources. Up to 35% of gross receipts may come from nonmember sources.

Provide opportunity for personal contact, and membership must be limited. A club that deals with the general public is not exempt.

Don't benefit private interests. No part of net earnings may go to any individual or stakeholder.

<https://www.irs.gov/charities-non-profits/other-non-profits/social-clubs>

501(c)(7) organizations have more restrictions. Here we see that an organization could organize for the purpose of pleasure and having fun.

Although our events are fun and recreational, the current elected officers themselves are primarily working those events and providing a forum for the public to enjoy themselves.

Exemption Requirements - 501(c)(7) Organizations (Cont'd)

Limit income sources. *"The club must be supported by membership fees, dues, and assessments."*

Don't discriminate. *"The club's governing instrument may not contain a provision that provides for discrimination against any person on the basis of race, color, or religion."*

Membership must be limited. *"The club may not hold itself out as providing goods and services to the general public."*

<https://www.irs.gov/charities-non-profits/other-non-profits/social-clubs>

These three requirements are listed on the IRS's website. Despite the seemingly redundant requirements, it indicates to me that the requirements about income and membership are extremely important to the IRS.

Who is a member?

Generally, the legal definition of members under nonprofit organizational statutes refers **only to individuals or entities who have a right to vote in the election for directors or on fundamental corporate transactions**, such as closing the business or amendments to the bylaws. Having rights as a director does not make an individual or entity a member, because is a separate category that is distinct from the board of directors of a nonprofit.

<https://info.legalzoom.com/nonprofit-members-26918.html>

I don't have access to the requirements of a 501(c)(7) organization circa 2003, but our bylaws state that anybody who attends an event is considered a member. To me, this looks like an attempt at finding a loophole in the requirement of limiting membership and income sources.

However, tax law has a very clear definition of what a member is.

501(c)(3)	501(c)(7)
Organize for exempt purposes.	Organize for exempt purposes.
Don't benefit private interests.	Don't benefit private interests.
Don't lobby.	Don't discriminate.
	Limit income sources.
	Provide opportunity for personal contact.
	Membership must be limited.

As of today, April 2019, under current operating procedures, this is how OutWorlders stacks up between the two statuses.

If we really wanted to be a 501(c)(7), we would have to address the two areas we fall short. To do so, however, conflicts with what I've heard among current membership.

501(c)(3)	501(c)(7)
✓ Organize for exempt purposes.	✓ Organize for exempt purposes.
✓ Don't benefit private interests.	✓ Don't benefit private interests.
✓ Don't lobby.	✓ Don't discriminate.
	✗ Limit income sources.
	✓ Provide opportunity for personal contact.
	✗ Membership must be limited.

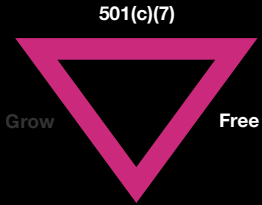
This is an iron triangle. Of the three options, we can have two of them.

We can be a 501(c)(7) for the sake of being a recreational organization, but then we'd either have to sacrifice growth and continue to run as we do today, or we'd have to start charging members to attend our events in order to sustain our plans to grow.

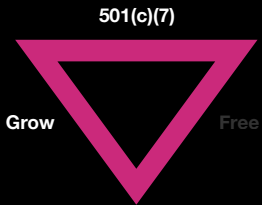
Or, we could forget about being a 501(c)(7), continue to offer free events, and focus on growing the group.



The Iron Triangle



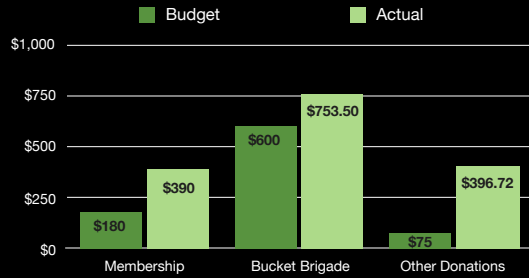
The Iron Triangle



The Iron Triangle

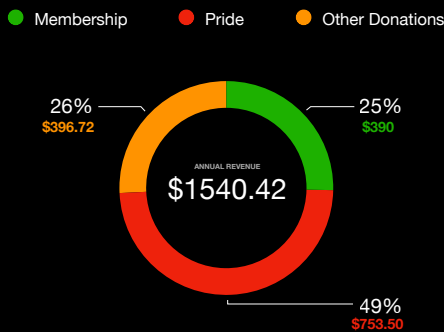


2018 Budget v. Actuals



These are the financial numbers for 2018. Membership Dues was the lowest source of income for us, and it was also budgeted to be 21% of our total income, however, the IRS requires a 501(c)(7) to derive at least 65% of their total income from members.

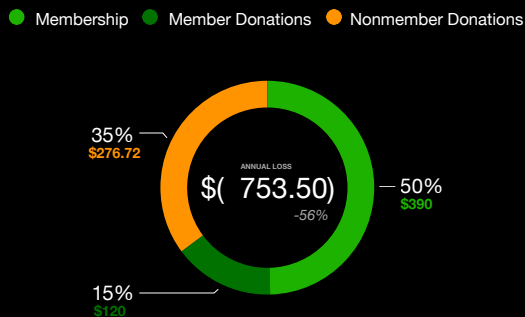
2018 Income Percentages



This is how 2018's income looked in terms of percentages. Membership accounted for only 25% of our income.

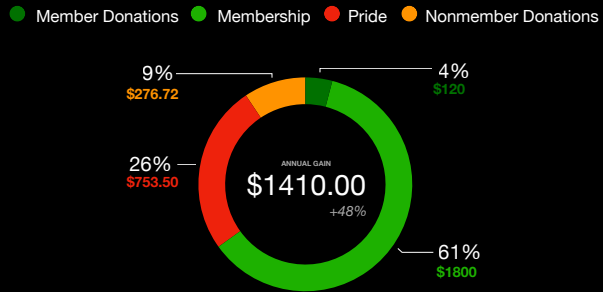
Remember, PRIDE is not a member of the organization and therefore we cannot say that because our members volunteered for PRIDE that the Bucket Brigade income came from our members. Additionally, by definition, we had two non-members volunteering for the brigade and we have no way of knowing how much money those individuals earned.

2018 Income Percentages (Limited)



So, in order to meet the limited income requirement, we would have had to decline the opportunity to volunteer for the bucket brigade and forfeit 56% of last years income. We'd also have to track who donated at game nights and hope that an additional \$120 came from sponsoring members.

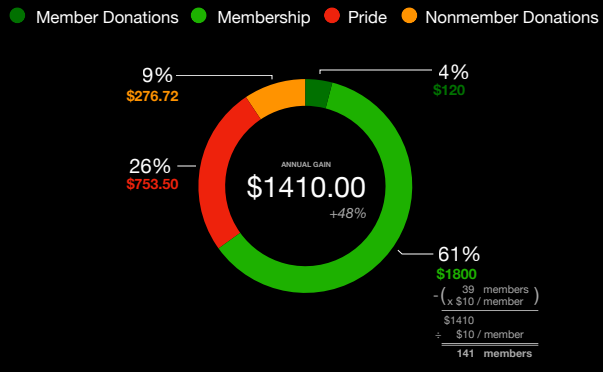
2018 Income Percentages (Limited)



Alternatively, we could have signed up more members so that our dues accounted for the minimum requirements.

If we continue to assume that \$120 worth of donations came from sponsoring members, we would have needed to recruit 141 more members for a total of 180 members.

2018 Income Percentages (Limited)



How many more 2019 members?



In 2019, it's a little easier in that we'd only have to recruit 96 more members and still have 8 months to do it. We'd need to sign up 12 members a month for the rest of the year.

How many more 2019 members?

$$\begin{array}{r} - \left(\begin{array}{l} 24 \text{ members} \\ \times \$15 / \text{member} \end{array} \right) \\ \hline \$1440 \\ \div \$ 15 / \text{member} \\ \hline \hline \mathbf{96 \text{ members}} \end{array}$$

If we do that, then we'd meet the requirements for 501(c)(7).

501(c)(3)	501(c)(7)
✓ Organize for exempt purposes.	✓ Organize for exempt purposes.
✓ Don't benefit private interests.	✓ Don't benefit private interests.
✓ Don't lobby.	✓ Don't discriminate.
	✗ Limit income sources.
	✓ Provide opportunity for personal contact.
	✗ Membership must be limited.

501(c)(3)	501(c)(7)
✓ Organize for exempt purposes.	✓ Organize for exempt purposes.
✓ Don't benefit private interests.	✓ Don't benefit private interests.
✓ Don't lobby.	✓ Don't discriminate.
	✓ Limit income sources.
	✓ Provide opportunity for personal contact.
	✓ Membership must be limited.




But all our events are social events!

<https://www.upsounsel.com/types-of-nonprofits>

All of events are social events, but they are typically thrown for the benefit of the community and the general public. OutWorlders is no longer throwing watch parties at friends' houses, or renting rooms at various cons for members to stay at for the weekend.

Atlanta's Premier Sci-Fi and Gaming Group




501(c)(3)

-  Organize for exempt purposes.
-  Don't benefit private interests.
-  Don't lobby.

If we were simply a sci-fi and gaming group, we would not be considered charitable.

Atlanta's Premier **LGBTQ+** Sci-Fi and Gaming Group

501(c)(3)

-  Organize for exempt purposes.
-  Don't benefit private interests.
-  Don't lobby.

However, we're an LGBTQ+ gaming group.

OutWorlders' Purpose

The purpose of this organization shall be to **provide an inclusive and friendly environment for lesbian, gay, bisexual, transgender, queer, and diverse gender and sexual identities (LGBTQ+) in the community** within forums including gaming as well as science fiction, fantasy, and horror media. This organization provides activities and programs that create community involvement within the LGBTQ+ community.

Again, if we look at our purpose, it is to provide an inclusive environment for the LGBTQ+ community.

We **provide** something

So if you consider that we provide something at little-to-no cost, we focus on a group that still faces a lot of discrimination, and we welcome people within that group, then there should be no question that we are a charitable organization.

We **provide** something

Focus on a **minority group**

We **provide** something

Focus on a **minority group**

Welcome everyone in that minority group

We **provide** something

Focus on a **minority group**

+ **Welcome everyone** in that minority group

We **provide** something

Focus on a **minority group**

+ **Welcome everyone** in that minority group

We are charitable

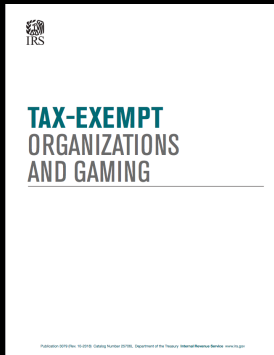
Atlanta's Premier **LGBTQ+** Sci-Fi and Gaming Group

501(c)(3)

- ✓ Organize for exempt purposes.
- ✓ Don't benefit private interests.
- ✓ Don't lobby.

Therefore, we meet all the requirements, and that's all we need.

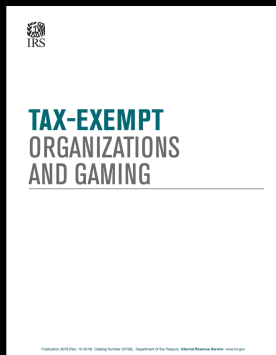
Publication 3079



On the non-profit application, the IRS asks if the organization participates in any gaming. The reasons they ask are outlined in Publication 3079. Keep in mind, however, that when the IRS talks about gaming, they're really talking about gambling, not Settlers of Catan.

However, the IRS does consider things like raffles, where you put in money and hope to win, to be a form a gambling, and there are specific rules about that for each tax exempt category.

Publication 3079



Gaming
means
Gambling

Section 501(c)(7), 501(c)(8) and 501(c)(10) – Social Clubs and Fraternal Organizations

The exempt function of organizations classified under these sections includes providing social and recreational activities for members and their bona fide guests*. **Thus, social clubs and fraternal organizations may engage in gaming involving only members without jeopardizing their exempt status.**

<https://www.irs.gov/pub/irs-pdf/p3079.pdf> p. 4

With gaming (gambling), the IRS still requires 501(c)(7) organizations to limit non-member income to 35%.

Section 501(c)(7), 501(c)(8) and 501(c)(10) – Social Clubs and Fraternal Organizations

Gaming open to the public does not further the exempt purposes of social clubs or fraternal organizations. **Section 501(c)(7), 501(c)(8) and 501(c)(10) organizations whose primary activity is public gaming jeopardize their exempt status** and the gaming income may also be subject to the tax on unrelated business income.

<https://www.irs.gov/pub/irs-pdf/p3079.pdf> p. 4

Section 501(c)(7), 501(c)(8) and 501(c)(10) – Social Clubs and Fraternal Organizations

Section 501(c)(7) social clubs endanger their exempt status when receipts from nonmembers – including those from gaming activities – exceed certain thresholds. A social club may receive no more than 35 percent of its gross annual receipts (including investment income) from sources outside of its membership. Within that 35 percent, no more than 15 percent of gross receipts can come from the public's use of club facilities or services. **If those limits are exceeded, the club's exempt status may be in jeopardy.**

<https://www.irs.gov/pub/irs-pdf/p3079.pdf> p. 4

Section 501(c)(7), 501(c)(8) and 501(c)(10) – Social Clubs and Fraternal Organizations

*For Section 501(c)(7), 501(c)(8), 501(c)(10) and 501(c)(19) organizations, the term "bona fide guests" is generally defined as individuals whom the member invites and for whom the member pays. If, for example, a nonmember pays for his or her own wagers in gaming activities, he or she is considered to be a member of the public and not a guest, even though he or she may have entered the organization's premises with a member. **Also, if an organization requires only a nominal payment to join as a "member," individuals making this payment to gain admission to the organization's facilities or activities may not be considered members or bona fide guests.**

<https://www.irs.gov/pub/irs-pdf/p3079.pdf> p. 5

They also state that if membership is a nominal fee (\$15 for a year, by definition, is nominal. It is not a serious financial consideration) that those who pay it to attend may not be considered members.

Section 501(c)(3) – Charities, Schools, Churches and Religious Organizations

A common misconception is that gaming is a "charitable" activity. **There is nothing inherently charitable about gaming.** It is a recreational activity and a business. Although a charity may use the proceeds from gaming to pay expenses associated with its charitable programs, gaming itself does not further any charitable purpose. **Thus, gaming cannot be a more than an insubstantial purpose of a 501(c)(3) organization.**

<https://www.irs.gov/pub/irs-pdf/p3079.pdf> p. 4

As a 501(c)(3), the only stipulation is that gaming (gambling) cannot be "more than an insubstantial purpose," meaning that OutWorlders cannot exist to host raffles.

501(c)(3)

Anyone can gamble.

Gambling must be insubstantial.

501(c)(7)

Only members can gamble.

OutWorlders would be allowed to become a gambling group if it wanted to.

Is being gay *en vogue*?

<https://www.upsounsel.com/types-of-nonprofits>

Is the LGBT group really a minority group anymore? After all, kids are coming out at younger ages, we have representation in Hollywood, does it even matter anymore?

Georgia is one of four states without a hate crimes law.

April 2, 2019, Georgia Senate failed to pass a hate crimes law.

The Georgia bill would have applied to those who target others because of race, color, religion, national origin, **sexual orientation, gender**, and mental or physical disability.

<https://www.theatlantavoice.com/articles/georgia-2019-legislative-session-what-didnt-pass/>

Republican Senators are in favor of discrimination on the basis of sexual orientation

February 22, 2018, Georgia Senate passed a bill that would allow adoption agencies receiving taxpayer funding to **refuse to work with same-sex couples**.

<https://www.wctv.tv/content/news/Georgia-Senate-advances-controversial-adoption-proposal-475035263.html>

Although this did not pass in the House, it shows that our lawmakers are still trying to fight for our *inequality*.

Here are two more headlines talking about LGBTQ inequality.

February 13, 2019 Project Q reports Georgia among lowest rated states for LGBTQ equality
<https://www.projectq.org/2019/02/13/project-q-reports-georgia-among-lowest-rated-states-for-lgbtq-equality/>

August 20, 2018 AJC reports Georgia second for occurrence of LGBT workplace discrimination
<https://www.ajc.com/news/georgia-second-for-occurrence-of-lgbt-workplace-discrimination-P3M1Ww7L5C0a9CY1N1N/>

A major company headquartered here in Atlanta still donates to anti-LGBTQ groups.

Chick-fil-A still donates to anti-gay groups

March 22, 2019, Vox reports that The Chick-fil-A Foundation donated **more than \$1.8 million** to three groups with a history of anti-LGBTQ discrimination in 2017.

<https://www.vox.com/the-good/2019/3/21/18275850/chick-fil-a-anti-lgbtq-donations>

Here are several recent headlines that the trans-community is dealing with, all happening within 30 days.

April 17, 2019 Naval Academy to ban transgender students starting in fall 2020
<https://www.cnn.com/2019/04/17/naaval-academy-ban-transgender-students-starting-in-fall-2020/>

April 12, 2019 President Trump's Transgender Military Ban goes into effect, preventing trans people from enlisting and forcing those already enlisted to serve as their birth gender.
<https://theadvocate.com/news/transgender-military-ban-goes-into-effect/>

April 11, 2019 Sec. DeVos defends rollback of transgender bathroom guidance; claims she was aware that "the stress of harassment and discrimination can lead to lower attendance and grades as well as depression" could be a result.
<https://theadvocate.com/news/national/11-sec-devos-defends-rollback-of-transgender-bathroom-guidance-while-acknowledging-negative-effects-of-discrimination-when-making-transgender-bathroom-rollback/>

April 10, 2019 Former Arkansas Gov. Huckabee Says Gender Non-Conforming Identities Are "Threat" to Moral Fiber of US
<https://theadvocate.com/news/national/10-huckabee-says-gender-non-conforming-identities-are-threat-to-moral-fiber-of-us/>

**501(c)(3) Organizations
are the most common**

**501(c)(3) Gaming Groups
Already Exist**

Houston Gaymers

75 meetups each year to play video games
Houston, TX

Tabletop Gaymers, Inc.

Runs tabletop gaming rooms at conventions nation-wide
Indianapolis, IN

Phoenix Gaymers, Inc.

Offers video games, board games, and socializing events
Mesa, AZ

Houston Gaymers

75 meetups each year to play video games
Houston, TX

Tabletop Gaymers, Inc.

Runs tabletop gaming rooms at conventions nation-wide
Indianapolis, IN

Phoenix Gaymers, Inc.

Offers video games, board games, and socializing events
Mesa, AZ

Geeks OUT

Empowers the queer geek community by creating queer spaces at events
New York, NY

Questions?
