

## **A Corporate Structure for Train Mountain Railroad**

Train Mountain Railroad (TMRR) is the new membership organization that will organize Meets and Events at TM. Here is an explanation of why TMRR is going to be a Mutual Benefit non-profit corporation and apply for a 501c7 tax status.

TMRR could be :

An Association - TMRR did not want to be an Association because it means all the members are collectively liable for debts and judgments. Also an association has no Tax-ID so its bank account and funds need to be entrusted to a member.... making them part of his/her estate which raises several issues.... like what happens if the member dies or goes bankrupt.

A Corporation - TMRR wants to be corporation because :

Liability - Directors, Members, Officers, and employees are usually not liable for the debts of a corporation.

Continued Existence - Directors, Members, Officers, and employees can die or move on and the corporation will continue without interruption.

Control - There is a defined control structure with the Board in charge.

Registrations, Books, Records - There are defined requirements for tax returns, reports, and fees to be paid to the State and Federal Governments... which many people understand... so there is a body of knowledge on how to operate corporations... you can get help.

What kind of Corporation ?

A For-Profit Corporation - TMRR did not want to be a For-Profit corporation because it plans to be successful and have income that it would have to pay taxes on. Also it raises questions about who would own the stock and where the assets would go on dissolution.

A Non-Profit Corporation - TMRR wants to be a Non-Profit corporation because it will not have to pay taxes on much of its income, the assets would go to another non-profit on dissolution, and it has all the advantages of any corporation... as listed above.

What kind of Non-Profit Corporation ?

Oregon State defines 2 types of Non-Profit Corporations:

Public Benefit Non-Profit Corporations (like Railroad Institute) exist to deliver a benefit to the general public. RRI delivers education.

Mutual Benefit Non-Profit Corporations (like Friends) exist for the benefit of their members. They allow groups of people to organize to invest in a facility and share the use of it. Most golf courses and social clubs are Mutual Benefit Non-Profits.

TMRR should be a Mutual Benefit Corporation because its primary purpose is to allow a group of people to organize meets and other "Social" events for the benefit of TMRR's members.

What Tax designation should TMRR apply for ?

The IRS defines all corporations as for profit corporations until they apply for a Recognition of Exemption [from Federal Income Taxes] under Section 501 of the code.

Public Benefit Corporations apply for 501c3 exemptions. 501c3 means :

Contributions are tax deductible.

Other 501c3 foundations can make grants to it.

95% of the budget must be spent on the exempt purpose

No deductible contributions may benefit an individual or group of individuals

No income tax is paid on income "Related" to the Exempt Purpose (like education).

Income tax is paid on "UnRelated" income.

Qualified Support must be 1/3 of the Total Revenues... where no more than 2% of the total revenues may be counted as Qualified Support from each donor or group of related donors. This "Mechanics Test" assures the IRS that the public supports the Public Benefit Corp and supports the benefit that is being delivered to the public... like education.... making it a "Public Charity". The test also assures the IRS the corp is not a Private Charity supported by a few wealthy contributors. There has been much abuse by Private Charities so the IRS has draconian rules for them. This test limits the size of a donation or grant that a 501c3 Public Charity can accept without "Tipping" into being a Private Charity.

TMRR cannot be a 501c3 because its central purpose is to benefit a small group of train enthusiasts, not the general public. K&W can be a

501c3 because its central purpose is giving train rides to the public... delivering education to the public.

Mutual Benefit Corporations apply for 501c7 exemptions. 501c7 means :

No income tax is paid on income "Related" to the club's purpose.

Income tax is paid on "UnRelated" income... which is restricted... 95% of the revenues must come from the members... No significant portion of the revenues may come from non-members where significant means 5% or more.

Contributions are not deductible.

Other 501c3 foundations cannot make grants to it.

Members may contribute as much as they want to it.

There is no Qualified Support or "Mechanics Test" nor Tipping.

TMRR can function well as a 501c7, but it has to watch that it does not develop businesses that make more than 5% of TMRR's income come from non-members.

Some other obvious questions :

Why can't TMRR operate like K&W giving rides to the public and educating the public ? --- TMRR could do that if it abandoned meets for members. If TMRR wants to develop a purely educational program open to all members of the public then TMRR could be a 501c3.... but RRI is unwilling to let the public ride on TM track except K&W track as long as there is the threat of amusement ride regulation.

Why can't RRI have all the members and host the meets ? ---- The problem is that members are a group of individuals that would be benefitted by tax deductible contributions. This would get RRI into trouble and result in RRI losing its 501c3 designation which would lead to big problems for Train Mountain.

Conclusion :

TMRR should be a 501c7. It is the tax status that best meets the TMRR needs.