

Why limited equity co-op MHCs should be designated as domestic nonprofit entities rather than for profit entities.

- The language of 11 V.S.A. § 1598 that they have elected to abide by under their articles of incorporation talks about their **public purpose** and their affordable housing mission. This section of Title 11 Chapter 14 imposes restrictions that are very similar to nonprofit corporations:
 - the corporation cannot undo its limited equity nature without dissolving,
 - the corporation cannot sell its assets to circumvent its public affordable housing purpose,
 - upon dissolution all equity after paying off member shares goes to a 501c3, etc. etc.
- Cooperative housing corporations are generally not taxed on income derived from their members due to Subchapter T of the Internal Revenue Code (IRC §§ 1381–1388), which governs the taxation of cooperatives. Under Subchapter T, amounts paid by members for housing costs—such as lot rent, carrying charges, and assessments—are treated as patronage income rather than profit, because they are collected on a cooperative, at-cost basis to operate, maintain, and finance the community. This patronage income is sometimes allocated back to members but is much more commonly allocated to shared MHC capital expenses on their behalf, allowing the cooperative to deduct it from taxable income and resulting in no income tax owed on member-derived revenue. Only non-patronage income, such as investment interest or non-member revenue, may be taxable. This framework reflects the fact that cooperative housing entities function as cost-sharing pass-throughs for residents, not profit-seeking enterprises, and avoids the double taxation of housing costs. 11 V.S.A. § 1589 requires 80% of housing units to be member-owned, so this means at least 80% of the corporation’s revenue is member patronage (and the percentage is much higher in reality)

How a nonprofit designation benefits our MHCs:

- For profit business filings are more frequent and costlier
- The designation can make a difference when determining a co-op MHCs eligibility for grant and low-interest loan funding given that funders sometimes use a state’s SOS nonprofit status as a proxy for certifying the entity’s
 - Public purpose and public benefit
 - Mission lock
 - Non-extractive ownership

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