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## Can Nonprofits Give Tax-Free Money to People? – Transcript

Jess Birken 00:00:02 Welcome to Charity therapy, the podcast where we explore the ups and downs of the nonprofit sector and answer your burning questions. I'm your host, Jess Birken, owner of Birken Law Office, and I'm excited you're here. Imagine hanging out with me and my super smart, funny, nonprofit expert pals. You get to ask them anything about your nitty gritty nonprofit life and get their wisdom for free. Whether you're a seasoned pro or just strapping on your nonprofit boots, we're here to share stories and remind you you're not alone on this journey. So get ready to join the conversation and bring me the tough questions I ain't scared. Ready to rock? Let's dive in. Hello and welcome to this episode of Charity therapy. It's me, Jess Birken, here with Meghan. Hello. It's me.

Meghan Heitkamp 00:00:49 Meghan, here with Jess Birken.

Jess Birken 00:00:52 Yeah, I feel like that kind of sums up my feeling about 2026 right now. It's just like, yeah, we're here.

Meghan Heitkamp 00:00:59 Here. We made it. We're here. I'm with you.

Jess Birken 00:01:01 And you're.

Meghan Heitkamp 00:01:01 With me. And it's.

Jess Birken 00:01:03 Here we are.

Meghan Heitkamp 00:01:04 Still. Nothing else to be said about that. Who knows what's going to happen? I don't feel any kind of optimistic or pessimistic. We are just here. Yes. Yes.

Jess Birken 00:01:14 It's like a meditation on existence. All right. So what are we doing here?

Meghan Heitkamp 00:01:19 What's up? Yeah. Today we're here to talk a little bit about starting a nonprofit and specifically when it's maybe not the best idea. So before we get into that, though, I do have a question for you, Jess. So lots of people decide that they want to start a nonprofit because gifts are deductible to donors. Right. That's a big part of the tax exempt status. But what does that even really mean?

Jess Birken 00:01:44 What does that even really mean? I'm not sure that people who want to start a nonprofit even really know what that means. I think a lot of people assume what it means is you get your C3 public charity status, and then people are just basically throwing money at you because there's this mysterious tax benefit if they do.

Jess Birken 00:02:06 And it has nothing to do with your mission or whether they care about it, they're just like, oh, your C3. Fantastic. Take my money. And the reality is I'm not a tax person. I'm not in public accounting. But it seems to me that fewer and fewer people are actually taking a deduction. So if you're an item miser, if you know what that is, that means you take individual deductions for individual items on your tax return. And if you give enough money to charity, you could theoretically get a deduction for giving to charity. But the number of people who do that went down a lot. When I think it was the Tax Cuts and Jobs Act, it was like 2016. They passed a law that basically said, hey, we're going to change the number. And a lot of people don't itemize anymore,

so gifts being deductible to the donor still feels very important to a lot of people starting nonprofits. But the reality is it may or may not really matter to people.

Meghan Heitkamp 00:03:16 Yeah, it's a small percentage of donors who actually have a financial benefit for giving to non-profits, it sounds like. Yeah.

Jess Birken 00:03:25 I think the fact that gifts are deductible is more of waving the flag, saying the IRS has blessed us and said that we're legitimate, that we are equal charity. When you give here, we are painfully blessed by one of the many commissioners that has cycled through this agency in the last 24 months. Yeah, I think that's really what it means effectively for a lot of people.

Meghan Heitkamp 00:03:54 Yeah, it's all about the the perception of the status, not what the status actually does in a lot of ways. So going on that train. I have a listener question that really talks about this and will allow you to get on your what the IRS tax exempt status really means. Soapbox.

Jess Birken 00:04:12 So oh great, I love ready. So let's do.

Meghan Heitkamp 00:04:15 That. All right. Listener writes in and says I own a couple of restaurants and we have several events to raise money for certain causes. Usually the money goes toward a charity or a local group, but sometimes we'll do it for a community member who needs financial support.

Meghan Heitkamp 00:04:30 The problem we're seeing is that when we give money to an individual, it messes up their taxes for the year. My bookkeeper suggested starting a nonprofit since nonprofit money isn't taxed. What kind of nonprofit would do that for us?

Jess Birken 00:04:45 Oh, bookkeepers, please. Please stop.

Meghan Heitkamp 00:04:50 I know you mean well, but don't give legal advice.

Jess Birken 00:04:54 Oh, okay. Bookkeeper says nonprofit equal. No tax. All good. That's the math that is happening here. And guess what? That is not really it. So. Okay. I'll try. I'll try not to be too rude. to the bookkeepers out there, y'all are doing the Lord's work. Because we all know that the restaurant owners of the world are not meant to do books and journals and churches.

Meghan Heitkamp 00:05:17 Frankly, neither are the lawyers. We're all just sort of like, Amen. Please give me the person who knows the numbers, but delegate.

Jess Birken 00:05:24 Absolutely. But we all need to stay in our lane. So here's the thing. I think this is great for this restaurant tour.

Jess Birken 00:05:32 It's a really great business idea. It's a really easy way to have a marketing campaign that's like, hey, we're gonna give back to the community. Every time you eat here, x percent is going to go to this organization. You see this a lot with school groups, teams. They're like, hey, come eat at the local whatever fast casual restaurant. And x percent of profits are going to. And right. Like this makes sense. It happens all the time. The problem is when we do it for a community member who needs financial support. So a GoFundMe for a person. You walk up to the counter at a restaurant or a store and you see, you know, little Timmy broke his leg playing hockey and his family can't afford the medical bills. Throw some change in the jar. That's not technically charitable from the IRS perspective. That is giving money to a taxpayer. And you can do that. But you don't get to call that a tax exempt activity. So starting a nonprofit doesn't really change that because you can't say, hey, we're starting a nonprofit, and now we

want you to give money for little Timmy, who has impossible medical bills, and we're going to run it through.

Jess Birken 00:06:52 You already can hear the tax fraud happening. As I say these words, we're going to wash this money through this nonprofit so you can claim a deduction. And then we're going to give it to little Timmy. Well, that still doesn't work, right? And that's a whole different episode. And we can get into to that, maybe on a different episode about like, private ornament and blah blah blah, and how, how would you do that? But you can never just raise money for Timmy's medical bills. And if you have donors saying, I want this dollar to go to Timmy, that's actually called the step transaction, and everybody gets in trouble if the IRS catches you doing that. So it's a bad deal. Now, I want to circle back though to when we give money to somebody it messes up their taxes. Well yeah because it's income. It's going to be income to Timmy's family. And that's but the thing is that's what they need. They need more income. You know, if they had a different paycheck amount, they wouldn't need financial resources.

Jess Birken 00:07:59 But if they had a different paycheck amount, they would have a different tax bill. Right? So the problem isn't that it messes up their taxes. The problem is that they have not adequately planned for the bill. That's going to come because you're surprising them with this big bucket of money, which is amazing. But there are some like downstream effects that can happen. So if you're like on social media, you'll see there's these creators out there. Like the one that comes to mind is this guy SB mowing, and he like has a landscaping company or he's a mowing service, but he just makes these YouTube videos basically where he goes finds the worst yard on the block. It's usually some like little lady who just can't handle cutting the grass anymore. Does this massive overhaul cuts back everything. It's amazing transformation and people will want to give. So he'll set up a GoFundMe and you'll see the lawyers like me screaming in the comments, help her set up a trust, get her in touch with an estate planning lawyer because you can't just dump a half million dollars on the little old lady without there being negative consequences.

Jess Birken 00:09:12 So you have to plan ahead. And so I think that's the real takeaway here. And I'm not a tax pro. I can't give tax advice. Which reminds me, you also cannot give anybody tax advice. You can't give your donor's tax advice. You can't give your beneficiaries tax advice. But if you are trying to help little Timmy set up a GoFundMe.

You can help that person. Also, be prepared for the consequences of having this large cash infusion that they weren't expecting. Right now, sometimes it really is just about paying the bills, and in that case, you don't need to give the money to Timmy's family. You could just pay the bill. Right. And so that's a way to avoid the immediate problem. But I can already like feel in my gut that that's wrong and that that's going to be income. And if we had an accountant on here who did public accounting they'd be like no you can't just pay the bill for somebody that's going to be considered income. So I just think you have to help the person plan.

Jess Birken 00:10:12 And I absolutely would not want anybody to start a nonprofit for the purposes of just making one person's taxes better, or three people's tax situation better. A few times a year, because running a business, running a restaurant is not easy. It is not cheap. You're not getting rich doing this. Most restaurants are have a very thin margin. You don't need to be taking more of your time and resources and your money and paying to start a whole new corporation that's more regulated, like a fortune 500 company, and has all this compliance. So I would just say, let's stick with how picking a charity and helping the charity. And if we're going to pick a person, just know that it's not deductible and you're going to have to be mindful of how this is going to impact that person's life. And you know what? This is what I say to my nonprofit clients, right? All the time. I don't care if you have to pay some tax once in a while, just pay the tax. Yeah.

Jess Birken 00:11:19 Like you, they need the money. They need the money to pay the bills. So just make sure that they are connected with the tax planner and that they get the advice and that we know we have to set aside X amount of dollars for the tax money because that's, that's really what we can do to help people. Anyway, I I'll step back from my soapbox now.

Meghan Heitkamp 00:11:41 Great, great. Love it. In this situation, it really sounds like, you know, this is a local community driven thing, like the restaurateur, the general manager, whoever probably knows this family to some degree, that is like eating meat, right? Absolutely. So there's a certain amount of, you know, this is not we're dumping \$5 million on someone who's not expecting it and is going to like, have, you know, downstream Consequences that don't make any sense or whatever. Like you're in conversation with these folks and so it can be part of the conversation, like you say of like, hey, this is going to help with this bill.

Meghan Heitkamp 00:12:17 And make sure you talk to your accountant about how much money you need to save or whatever. You know, it's just like, especially if you're talking like thousands and thousands of dollars of medical bills. That is a never ending pit to pay, you know that. You just want to make sure to not put all of the money toward the bill, knowing that you're also going to get a tax bill. Yep. Yeah. Okay. I have a couple of takeaways here that I think can kind of sum this up. So first, tax exemption for nonprofits does not mean you never need to think about taxes at all. There are taxes to be paid for certain kinds of activities. And also it does not mean that your recipients or donors never have to think about taxes. There are still taxes in and around all parts of the nonprofit sector. So get that out of your head that non profit equals no tax ever.

Jess Birken 00:13:11 If only I knew more of the words to the Beatles Taxman song. I would serenade you right now but I just, I can't.

Meghan Heitkamp 00:13:19 Well I'll make you look it up and drop in a clip later or something. We'll see.

Jess Birken 00:13:23 I don't I don't think anybody wants to hear that.

Meghan Heitkamp 00:13:27 So that's the first one. The second one is that you cannot give tax advice as a non profit to your donors who are asking about deductibility to your beneficiaries, to anybody. That is not an appropriate way to use your platform. And thirdly, you do not need a non profit in order to give money to other people. As a business, if you want to give back to your community, you can just do that and there's often not a lot of benefit to you to start a non-profit in order to continue to do that, particularly not as a way to avoid causing undue tax burden on your beneficiaries here. So the idea that a non-profit will fix all of these problems is just simply not true. And you can continue on your good works through this company. The way that you've already been doing them.

Jess Birken 00:14:19 Yeah. And and obviously, like a lot of this is like it depends.

Jess Birken 00:14:24 And how much of this are you going to do. And like sometimes the answer is going to be different with different facts. This is not legal advice. You should talk to a lawyer. You know like all the things. But like just generally if twice a year you're going to help raise money for Timmy's hockey broken leg. Like, bro, don't start a nonprofit.

Meghan Heitkamp 00:14:47 Yeah, the juice isn't worth the squeeze at the end of the day for something like that. All right. I think that about wraps it.

Jess Birken 00:14:54 I think it does. I'm, I feel like I was kind of a Debbie Downer on this one, but you know what? Sometimes that's the way it goes. Well, I think the rain on People's Parade sometime.

Meghan Heitkamp 00:15:07 I think the bottom line is not really a Debbie Downer so much as like, guess what? You don't have to do a whole bunch of extra work for this thing. That sounds like a good idea. You're already doing the great idea, and you can just keep doing it like that's true.

Meghan Heitkamp 00:15:23 That's great news.

Jess Birken 00:15:24 That's true. All right, well, if you thought this was a great episode and that I was not kept in depressing. Oh, you know what? Give us a rating. Share it with a friend. If you know somebody with a small business who's maybe listening to their bookkeeper, who doesn't know what they're talking about, hey, share this episode with them. If you've got a question or a story or a different set of facts that you want us to react to.

Jess Birken 00:15:48 Send me a note. Online charity therapy dot show.

Jess Birken 00:15:51 And as always, thanks for listening.

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## About the Author



**Hi, I'm Jess Birken.**

I'm the owner of Birken Law Office, I help nonprofits solve problems so they can quit worrying and get back to what matters most – The Mission. I'm not like most attorneys, I actually have an outgoing personality, and – like you – I like to think outside the box. Most of my clients are passionate and have an entrepreneurial spirit. I'm like that too. My goal is to help you crush it. Getting bogged down in the minutia sucks the joy out of the important stuff. My clients want to do the work – not the paperwork.

**Let's connect!**

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