Jessica Birken, MNM, Esq.
Birken Law Office PLLC
1400 Van Buren St. NE
Suite 200
Minneapolis, MN 55413
www.birkenlaw.com
Office: 612.200.3679

How Can a Nonprofit Organization Offer Retirement Benefits? with Christopher Tipper – 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. Today I am joined by my friend Christopher Tipper of Hunter Benefits Consulting Group. Christopher is a self-described compliance geek, and his firm helps businesses and nonprofits set up retirement plans are definitely a geeky endeavor. And thank you so much for being here.

Christopher Tipper 00:01:06 Thank you Jess, I'm really thrilled to be here. Really.

Christopher Tipper 00:01:08 Thank you.

Jess Birken 00:01:09 Yeah, it's fun to be able to, like, actually bring in somebody with the precise expertise that you have. You know, I started offering a 401 program with a match here at the law firm a few years ago, and I feel like I should have known you then, because I had no idea it was going to be so complicated to set up and to maintain, and for one case, are, like, so common. I was just totally surprised at how what a nightmare it was. And before we jump into the listener question, I have one quick question for you that I just want to clear up. How does a small business or a nonprofit even know whether they're ready to offer retirement benefits?

Christopher Tipper 00:01:53 Okay, this is actually a serious, accurate answer, but because I'm saying it, it's going to sound like I'm trying to be snarky or ironic. I'm not. Okay. No, seriously.

Jess Birken 00:02:04 Good.

Christopher Tipper 00:02:04 Disclaimer it's you need to answer two questions. Is there at least one employee in the firm, and does that employee plan on living after they are retired?

Jess Birken 00:02:15 Yeah, I see what you mean.

Christopher Tipper 00:02:16 That's nasty. No, no it's not.

Jess Birken 00:02:20 Who doesn't plan on living after they're retired?

Christopher Tipper 00:02:22 My point. So every almost every company has one employee and everybody wants to live after retirement.

Jess Birken 00:02:29 So the answer is yes. You're ready.

Christopher Tipper 00:02:31 Yes you're ready.

Jess Birken 00:02:33 Okay.

Christopher Tipper 00:02:33 But which tool how do you go about it. Right. And that's where you get a lot of confusion and a lot of misdirection. And it is. Come see.

Jess Birken 00:02:43 Now let me let me do the listener question because okay I think we're going to get into that with.

Christopher Tipper 00:02:48 Like okay okay.

Jess Birken 00:02:49 Why when you know all that stuff okay. So I don't want to I don't want you to like blow it all on this. And then, you know, the listener questions I already answered.

Christopher Tipper 00:02:58 Yeah, I got lots. Don't worry. Okay. Just go for it. What's the question?

Jess Birken 00:03:01 All right. So the listener writes in I'm the executive director for a small nonprofit with four other full time employees. Okay. The nonprofit is only about five years old, but very successful, both in terms of service to mission and in financial soundness.

Jess Birken 00:03:18 That's good.

Christopher Tipper 00:03:19 Okay.

Jess Birken 00:03:19 I've been advocating to my board that it's time to begin offering more benefits to employees, including a 401 K. Okay, I realize this is kind of a selfish ask since I would benefit, but I do really think it would help us recruit and hold on to good people. I just started doing the research and I'm already over my head. How do I figure out what is the best option for us and how do I even begin?

Christopher Tipper 00:03:46 All right, that you do understand just that is not a yes no question.

Jess Birken 00:03:51 Yeah, yeah. That's why we have a podcast to talk about.

Christopher Tipper 00:03:53 We are. Otherwise it's it's a really short one. Okay. We are going to make an assumption that because they said there are not for profit, that it is a 501 C3, because only 501 C3 can adopt a certain kind of plan, which we're going to talk about in a minute. Okay. Now that there are actually five choices for them to make, but we're going to we're going to whittle those down very quickly.

Christopher Tipper 00:04:18 The first one is a non RISC for a three B plan. Those are kind of very loosey goosey Wild West. And because I technically legally can't even be involved with them, we don't know nothing about them. We don't do anything with them. The second option is what's called a simple four one K plan. This is a legislation that started in 96. In 30 some odd years, however long it's been, I've seen one. So we won't talk about those either. And then the other one is called a simple IRA. Now we don't do anything with these because they're supposed to not need anybody's help. But a simple IRA has low has almost zero compliance costs, so the compliance consultants don't make any money. It's a little bit more operational work for this person. Hey, whoever's taking care of payroll and things like that. But if there's nobody at the company that right now wants to defer more than. And forgive me for not looking up this year's exact limit, but this is the order of magnitude.

Christopher Tipper 00:05:18 Okay. So if somebody doesn't want to defer more than $14,000 in 2026 or 2027, they may want to think of that as an option, because the limits for the simples are less than the next two options.

Jess Birken 00:05:35 Okay, let me stop you there because you said a simple IRA, which is an individual retirement account.

Christopher Tipper 00:05:41 Yeah, but it's sponsored by an employer.

Jess Birken 00:05:44 Okay. So this one I'm saying, like, I didn't actually realize the employer could sponsor an IRA for their employees.

Christopher Tipper 00:05:51 They could sponsor a simple IRA. And I went and looked. I'm a couple. I've been doing this for a while, so I'm usually years behind on my limits. It's actually 17,000. So if there's nobody at this fire, at this company or any other not for profit or any other company that nobody's going to want to defer more than $17,000 and the employer can afford to make a nominal employer contribution. The least expensive, most appropriate, theoretically easiest option is a simple IRA.

Jess Birken 00:06:23 For each one for each employee, and then the nonprofit manages each one.

Christopher Tipper 00:06:29 Yeah, it's still a plan, but they all get their own account.

Jess Birken 00:06:32 Okay.

Christopher Tipper 00:06:33 Okay.

Jess Birken 00:06:34 And you're saying that's actually a good option for the small nonprofits.

Christopher Tipper 00:06:39 The small employers, nonprofits and for profit? Is it okay if I say for profits on this show?

Jess Birken 00:06:45 Oh, yeah.

Christopher Tipper 00:06:46 Yeah. I'm kidding, I'm kidding. Yeah. No. So what we have seen, we tried to help the not for profits as much as we can, but their wages usually limit them as to what they can put away, regardless of their want or need.

Jess Birken 00:07:01 I was like $17,000. Probably not going to be a problem for this small nonprofit with five people.

Christopher Tipper 00:07:07 Right? Right. So then the next thing, what's after that? So if they're if they have somebody who's in a situation, even if it's unemployed, if they have a situation where at least one employees in a position where they can and want to in need to defer more than that, they can, then what you're going to look at is a 4 or 3 B plan or a four one K plan.

Christopher Tipper 00:07:29 Now I know the question. I believe I believe the question was originally asking about a four one K plan. Right? So because they're assuming to be a 501 C three, they get two choices now for many, many purposes. And we're going to leave like 99% of this. Not in the conversation for most people. For most situations a four one K plan and a 4 or 3 B plan is very similar, with one exception. And that's something because in my world we have a lot of definitions and we have a lot of different limits that we have to pay attention to. And one of them is the IRS definition of highly compensated employee. Now, this is an IRS imposed limit, not something that the employer thinks is a highly paid employee. Because most of our job is breaking every employer into two groups highly compensated and non highly compensated.

Jess Birken 00:08:23 And that cut off is a $100,000 salary.

Christopher Tipper 00:08:26 No no no for 2026. Because it's a it's because simple was in a different piece of legislation. It's $160,000 in 2025.

Christopher Tipper 00:08:37 It's always how much you earned in the prior year.

Jess Birken 00:08:41 Okay. That's fascinating because for a startup, for a nonprofit, the IRS is asking, do you have highly compensated people? And it's $100,000. So depending on what thing you're doing with the IRS, their definition of highly compensated changes, that's crazy.

Christopher Tipper 00:08:57 Context is everything in this business 100% just yes okay. So we have. I'll get phone calls from people saying, oh my God. We need to set up this very specific plan because we've got all these very highly compensated employees, and the employer wants to give each of these highly compensated employers $3,000 of employer contribution. Okay, great. How much are they making? Well, one of them's making. Now, please understand I'm not being dismissive. These are real phone calls. But this is also IRS rules. Okay. Oh, we've got one person making $87,000, one person making $82,000, and one person making $81,000. Okay. Yes. Those are the three highest paid people at the firm, and everybody else is making 20 grand.

Christopher Tipper 00:09:39 I'm not being dismissive. Those aren't highly compensated employees, so we don't have those rules to worry about because they're all non highly compensated. Am I making any sense or have I gotten. Am I burying us in the weeds already. So no. Again, I'm not trying to be dismissive.

Jess Birken 00:09:55 But.

Christopher Tipper 00:09:56 We're going to have to have a little geek here. Come on, man, I'm doing my best. So what the not for profit needs to think about is what's the IRS's definition of highly compensated for retirement plans? Yeah. Now then, if the if so, we've got a lot of decision trees, but they're all simple. Yes. No questions. If they have nobody making over 160, you're going to be okay with a four one K plan because you have a few. You have some more vendor choice and some more awareness of it as a benefit. It has more cachet, okay. It has more street cred just because people know more about it. The amount of money that the employer that the individual can contribute to it is exactly the same.

Jess Birken 00:10:44 Yep. Well, I would assume that this person writing in may not even be aware that the simple IRA exists. The 403 B exists because the branding of the 401 K is so strong that people just use that word, like we say, Kleenex for tissue. Right.

Christopher Tipper 00:11:03 Exactly, exactly. It's ubiquitous for the retirement plan. Because if you're driving around like so, the town where I live, there's a bunch of smaller employers. They got their keys out there where they're trying to hire employees. We offer a 401 K plan. Nobody ever says we offer a simple IRA, or we're part of the state mandated plan. No, it's a four one K plan. I mean, the shopping carts at the grocery store one year when they were trying to get people to hire them, talked about the 4k plan, you know, as the advertisement. So the next thing. Okay, so we've got a decision tree. Do your first one is do you have anybody who's going to want to defer more than $17,000.

Christopher Tipper 00:11:41 If no, go to a simple IRA. If yes, look at a simple look at a four one K plan or a 403 D plan if you have nobody going to make or last year made over $160,000. Stick with the four one K plan. Got it. Okay, so we've got we got one. Yes. No question one. Yes. No question. So then if you have somebody making over 160 and we have some not for profits where I'm like you guys are making how much. Okay.

Jess Birken 00:12:12 Oh yeah. I mean honestly though 100 K today is the 50 K of 90s.

Christopher Tipper 00:12:19 I mean yeah I know seriously. Right. So if you have somebody who is a highly compensated employee because of the IRS rules, the 403 B plan has one benefit that the forward K plan doesn't. There's no testing for the deferrals. So you can.

Jess Birken 00:12:36 Have okay that's Charlie Brown teacher. What what's testing of deferrals. Thank you. In the plainest English possible.

Christopher Tipper 00:12:43 The reason why I get out of bed in the morning Jess okay.

Christopher Tipper 00:12:47 So okay. Now sorry. We're going to go back to my fourth grade teacher, because basically what my industry is, is an overblown fourth grade teacher. The reason why I'm saying that is, as you can imagine, I was not a quiet child. I was always asking for stuff, right? Yeah, but I remember my four one K teacher was the one who told me the most. Now, Christopher, if I give it to you, I have to give it to everybody else. So that's why I think about the fourth grade teacher. So what? What the IRS rules are written is that the amount that the highly compensated employees can have as a benefit. And we're being very loose with that word on purpose. The amount of money that the highly compensated employees can have as a benefit is dependent upon the benefits that the rank and file as a whole are getting.

Jess Birken 00:13:38 Which that makes sense, because, you know, you're trying to make sure that the plebs actually get good benefits. And we're not just compensating because.

Christopher Tipper 00:13:49 Yeah, yeah. Before like in the in 1973 and before you could do that, you could legally give a plan to just the C-suite and nobody else got anything. Now, since there's this law came out in 1974, I've been talking about the ERISA plans. That means you have to have the benefits of the hills, and we define that by compensation. We're doing the easiest definition here just as more definitions. But we're going to do the easy one. Yes please. So we always we always divide the group into two. And what the hirelings can do is limited by what the non hollies do. So what I said before unfortunately skipping a couple of logic steps there was that if you have a 4 or 3 B plan, if you have an employee, maybe a different executive director who made $200,000 last year and they deferred $25,000 this year, that turns into a percentage of the compensation. But we don't care about that. We don't care what everybody else deferred, because we don't have to pass that test, because we don't have to pay attention to it.

Christopher Tipper 00:14:53 Okay. So if you have a not for profit with well paid people that doesn't want to make an employer contribution, they want to go to a 4 or 3 B plan.

Jess Birken 00:15:02 Okay.

Christopher Tipper 00:15:02 Okay. I This is. This is where it might be a little bit complicated, but we're it. These are the questions that people get to think about. But you know so that's why you got your podcast right.

Jess Birken 00:15:16 So can you circle back to the piece where you were like, I'm assuming there are 501 C3 because they didn't tell us. And I think that's a pretty safe assumption to assume they're a public charity. 501 C3. What would without going totally down the rabbit trail? What does that if they were 501 C6 trade association or a C4 or some, you know, C7 recreational group or something? Does that change things?

Christopher Tipper 00:15:44 Yes. They can't have a four three B plan. We would have to look to see if they would have a I don't know the answer off the top of my head for all those other code sections.

Christopher Tipper 00:15:54 That's why I said I'm assuming 501 C3, because I know that one. Okay, we would have to look to see if they had a 457 or 401 A, which are other, just different flavors of the same ice cream. Okay. And then or do they have or can they have a four one K plan. But if they're not a 501 C three they can't have a four three B plan, which is the ubiquitous plan for not for profits.

Jess Birken 00:16:21 Okay. Interesting. So it's just some sort of like a special 403 B. It's just like special for public charities. Who knows why we do it that way. But we do.

Christopher Tipper 00:16:33 And we haven't even started to talk about cash balance plans, which I won't say anymore. So yeah, I mean we can get. Yeah. That's a, that's a 45 minute podcast. So we won't go there. But just very quickly. Just very quickly. Not for profits and sponsor pension plans like a cash balance plan. I'm just simply saying they can.

Christopher Tipper 00:16:54 It would be the next level after a 401k plan. I'm just saying they can, but we won't go into any more detail.

Jess Birken 00:17:00 Okay, so realistically, what should a nonprofit sort of expect or budget for the cost of the plan? I mean, I think the obvious thing is any employer match, right? Like, obviously you're going to pay that. But as far as just administration, you know, the fees for getting it set up, whatever. What do you think would be a realistic number to budget for? And does it depend on how many people like 100%?

Christopher Tipper 00:17:28 Yes. Like I said, the simples are the simple plan, the simple IRAs. They don't have a compliance fee, but they have a budget. You know, they need to budget 3% of wages as possible employer contributions. So they're saving on compliance costs, but they have to make an employer contribution with a simple IRA. Got it with a four one K plan or a 4A3B plan. It is possible to have the plan not have an employer contribution.

Christopher Tipper 00:18:00 Most of them do, but you don't have to have it if you meet certain criteria. So and that also depends on how much of the fees are going to be paid by the participants and how much are going to be paid by the employer. There are a lot of my I'm going to be kind, competitive brethren siblings out there who portray themselves as being very inexpensive, but actually charge each participant with an account balance a monthly amount, regardless of how small their plan is, small their account balances okay, and the employer pays nothing. We. And so it looks cheap because the employer is not paying any money, but the employees are taking a ding out of their retirement plan.

Jess Birken 00:18:44 Yeah, but maybe for some groups that's the only way they're going to make it fly. And they want you to have a retirement benefit option.

Christopher Tipper 00:18:51 So 100% it's it's better than not. So yeah, you're better off with something with high fees than nothing with no fees. True. But just understand that's that's a choice the employer has to make whether they're a not for profit or not.

Christopher Tipper 00:19:03 But then depending on now, it might it might seem like a lot, but I'm guessing for a fourth would be plan for 25 or so employees. You're looking at about almost $3,000 in compliance cost.

Jess Birken 00:19:20 Okay, okay. That's good to know. That's good.

Christopher Tipper 00:19:22 To know. So maybe budgeting 50 to 60 bucks, an eligible employee ish orders of that magnitude and you get what you pay for.

Jess Birken 00:19:32 Okay. So I want to I want to circle back to the executive directors question, because I want to address the piece about how they're concerned about a conflict of interest. And I just want to put the Ed's mind to rest on this, that, like, you don't need to worry about if it benefits you because it's not your decision. Your board is going to decide whether or not to offer retirement benefits to all the employees. That includes you, and if it's in the best interest of the nonprofit to do that, then that's what the board is going to do and you don't need to worry about any perception of a conflict or you being selfish.

Jess Birken 00:20:08 So I just want to put their mind at ease 100%.

Christopher Tipper 00:20:10 Just because I'm glad you went back to that, because I wasn't going to bring it up unless you did, because I tried to address the initial question instead of the secondary one. That person has either badly googled or been given bad advice or bad direction because that's not a thing. Okay.

Jess Birken 00:20:28 It's just a typical sort of like a lot of my clients that care about doing it right. And in my experience, a lot of non-profits, they care about doing it right. Right. Are sometimes overly concerned about the appearance of conflicts of interest. And I'll take it. I'll take that all day, every day over somebody who just flies by the seat of their pants and does not care. So it's okay. It's okay. Well, let me kind of do a summary of what I think are a couple of the really meaty takeaways here.

Christopher Tipper 00:20:57 How good a job I did.

Jess Birken 00:20:59 Yeah. So first of all, number one, when you're thinking about retirement benefits.

Jess Birken 00:21:05 Do not assume that the 401 is your only option. There are other options. If you're a public charity, there's a special option. There may be other options for other types of non-profit entities. And don't forget to ask about employer sponsored simple IRAs because it could be a lot easier. And since brokers don't make money on the IRA, they're not going to tell you about it.

Christopher Tipper 00:21:32 The advisors do, I don't.

Jess Birken 00:21:34 well, Christopher's not going to make any money about it. So if you talk to Christopher make sure you still ask him about it. So that's one right. Like no really know what your options are and what your options are because a lot of content is not produced for non profit people. And so just you know be advised it's not just for one. And then I think to is remember when you're reading those blog articles or the AI summary that's probably wrong. The words highly compensated might come up, but that does not mean what you think is highly compensated on your payroll. It's an IRS defined number that's set by the IRS that has to do with the retirement plan.

Jess Birken 00:22:17 And so you don't be assuming you know what that number is. It's not subjective. And then I think really the the biggest takeaway for me here is if you listen to this and you're thinking about retirement benefits for your organization and you're like, okay, but it still clear as mud, you need to call someone because this is a very facts and circumstances decision that you really need somebody to go through the if this then that, then yes. Do you want to okay. And get to a place where you are making a good decision that's informed. And so I just think at the end of the day is probably call someone for help and don't try and DIY this. There's a lot of things you can DIY, but do not DIY this.

Christopher Tipper 00:23:05 We did do a YouTube episode where my marketing guy asked a free version of AI about the best plan for the for this made up company and the advice that the AI gave it gave it would have gotten them into a ton of trouble. It was.

Jess Birken 00:23:21 Yes.

Christopher Tipper 00:23:22 It was one third really bad.

Christopher Tipper 00:23:24 One third. Yeah, and one third. Okay. But the really bad was really bad. So yeah, don't, don't, don't ai this.

Jess Birken 00:23:32 And I think that's a very valid point. And that should be on the takeaways list because seriously y'all, the AI summary is wrong. The AI is wrong. I use AI every day. And I was just telling Megan earlier today, man, the AI is wrong every day this week, so be warned. You talk to a human who has done this and does this for their job. Just like you would hire me to be your lawyer when it matters, your retirement benefits matter. Get somebody on the phone. Christopher. Thank you so much for being here, for sharing your knowledge with everyone. If folks want to find you, learn more from you. Where can they find you online?

Christopher Tipper 00:24:15 The best place is our website. Hunter benefits. Com and if they'd like to ask a question that they don't want to post on the YouTube channel, you're going to have a link for it's sales at Hunter benefits.

Christopher Tipper 00:24:27 Dot com is the best way to get in touch with us that way.

Jess Birken 00:24:30 Perfect.

Christopher Tipper 00:24:31 Thank you.

Jess Birken 00:24:31 Folks, if you enjoyed this episode, please do me a huge favor. Share it with a friend. Rate review. Subscribe in your podcast app. It really does help people find the show. If you have a question or a story to share, we'd love to hear from you. Send me a note online at Charity Therapy Show. And as always, thanks for listening.

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!

Jessica@birkenlaw.com | 612.200.3679 |
@JessicaBirken www.linkedin.com/in/Jessicabirken
www.facebook.com/birkenlaw