

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

NATIONAL RELIGIOUS BROADCASTERS, *et al.*,

Plaintiffs,

v.

BILLY LONG, *in his official capacity as*
COMMISSIONER OF THE INTERNAL
REVENUE SERVICES, *et al.*,

Defendants.

Civil Action No. 6:24-cv-00311

**BRIEF OF *AMICUS CURIAE* GRACE CHURCH ST. LOUIS AND NEW
WAY CHURCH IN SUPPORT OF JOINT MOTION FOR ENTRY OF
CONSENT JUDGMENT**

TABLE OF CONTENTS

TABLE OF CONTENTS.....	ii
TABLE OF AUTHORITIES	iv
INTEREST OF AMICI.....	1
STATEMENT OF ISSUES	2
SUMMARY OF ARGUMENT	2
ARGUMENT.....	3
I. Experience of the Amici Targeted by the IRS for Constitutionally Protected Activity.	3
a. Grace Church St. Louis.....	3
b. New Way Church.....	5
II. The Johnson Amendment Upends Church Autonomy	7
a. The IRS merely recognizes what is already true: churches are tax exempt.....	7
b. The history of the Johnson Amendment and its chilling of constitutionally protected rights.	8
III. The IRS Shields the Johnson Amendment from Challenge While Chilling Constitutionally Protected Speech.....	9
a. The futility of enforcing the Johnson Amendment.	9
b. The onerous process of a church tax inquiry under the Johnson Amendment.	12
c. The potential penalties available to the IRS to exert upon houses of worship it determines have violated the Johnson Amendment.....	13
d. The doctrine of Taxpayer Standing insulates the Johnson Amendment from challenge until it’s too late while inviting the political targeting of constitutional rights.	14
IV. The Johnson Amendment Violates the Guarantees of Free Speech and Religious Liberty in Multiple Ways.	17
a. The doctrine of Church Autonomy undermines the Johnson Amendment’s power.....	17
b. The Free Exercise Clause of the First Amendment to the U.S. Constitution protects	

against the Johnson Amendment’s threats.	17
c. The Johnson Amendment violates the Free Speech Clause of the First Amendment to the U.S. Constitution.	18
d. Enforcement of the Johnson Amendment against houses of worship constitutes unlawful viewpoint discrimination.	20
e. Giving the IRS nearly unfettered discretion to enforce the Johnson Amendment invites inequitable, politically-motivated application of the law.	20
f. Since 1954, the Johnson Amendment has bred unlawful hostility toward religion by the government and fomented it within the American culture.	21
g. America’s history and tradition counsels against the continuation of the Johnson Amendment’s application against houses of worship.	22
h. The government cannot place unconstitutional conditions to compel a house of worship to comply with the Johnson Amendment.	23
CONCLUSION.	24
Certificate of Service	25

TABLE OF AUTHORITIES

CASES

<i>Am. for Prosperity Foundation v. Bonta</i> , 594 U.S. 595 (2021).....	19
<i>Am. Legion v. Am. Humanist Ass’n</i> , 588 U.S. 29 (2019).....	22
<i>Ass’n of the Bar of N.Y. v. Comm’r</i> , 858 F.2d 876 (2d Cir. 1988).....	11
<i>Branch Ministries v. Rossotti</i> , 211 F.3d 137 (D.C. Cir. 2000)	<i>passim</i>
<i>Christian Echoes Nat’l Ministry, Inc. v. United States</i> , 470 F.2d 849 (10th Cir. 1972).....	11
<i>Church of Lukumi Babalu Aye, Inc. v. Hialeah</i> , 508 U.S. 520 (1993)	21
<i>Citizens United v. Federal Election Comm’n</i> , 558 U.S. 310 (2010)	18, 19
<i>Commonwealth of Massachusetts v. Mellon</i> , 262 U.S. 447 (1923)	14, 15
<i>FCC v. League of Women Voters</i> , 468 U.S. 364 (1984).....	18
<i>Flast v. Cohen</i> , 392 U.S. 83 (1968)	15
<i>Fonticiella v. Comm’r of Internal Revenue</i> , 117 T.C.M. (CCH) 1377 (T.C. 2019)	16
<i>Fulton v. City of Phila.</i> , 141 S. Ct. 1868 (2021).....	20, 21
<i>Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC</i> , 565 U.S. 171 (2012)	17
<i>Jones v. Wolf</i> , 443 U.S. 595 (1979)	17
<i>Kennedy v. Bremerton Sch. Dist.</i> , 597 U.S. 507 (2022)	18, 19, 22
<i>Masterpiece Cakeshop, Ltd. v. Colorado C.R. Comm’n</i> , 584 U.S. 617 (2018)	21
<i>Murdock v. Com. of Pennsylvania</i> , 319 U.S. 105 (1943)	18
<i>NAACP v. State of Ala.</i> , 357 U.S. 449 (1958).....	19
<i>Perry v. Sindermann</i> , 408 U.S. 593 (1972).....	23
<i>Regan v. Taxation with Representation</i> , 461 U.S. 540 (1983)	11
<i>Rosenberger v. Rector & Visitors of Univ. of Virginia</i> , 515 U.S. 819 (1995).....	20
<i>Shurtleff v. City of Bos., Massachusetts</i> , 596 U.S. 243 (2022)	19, 22

<i>Town of Greece v. Galloway</i> , 572 U.S. 565 (2014).....	22
<i>Trinity Lutheran Church of Columbia v. Comer</i> , 582 U.S. 449 (2017).....	22
<i>Walz v. Tax Comm’n of New York</i> , 397 U.S. 664 (1970)	23
<i>Watson v. Jones</i> , 80 U.S. (13 Wall.) 697 (1871)	17

STATUTES

26 U.S.C. § 170.....	7
26 U.S.C. § 4955.....	13
26 U.S.C. § 501.....	7, 8, 11, 12
26 U.S.C. §508.....	7
26 U.S.C. § 6852.....	13
26 U.S.C. § 7409.....	13
26 U.S.C. § 7611.....	12, 13
42 U.S. C. § 2000bb.....	10, 18

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Editorial Board, <i>Editorial: Maryland Heights church deserves to have its tax-exempt status suspended</i> , St. Louis Post Dispatch (Mar. 9, 2022), https://archive.is/NcqZl#selection-3473.23-3477.73	4
I.R.S. Pub. 1828 at 2 (Rev. 8-2015), https://www.irs.gov/pub/irs-pdf/p1828.pdf	7
IRC 501(c)(3) Political Activity Compliance Initiative.....	13, 14

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RULES

I.R.S. Pub. 1828	8
26 C.F.R § 1.501	8

INTEREST OF AMICI

Amici are churches targeted by the Internal Revenue Service (“IRS”) for enforcement under the Johnson Amendment. Grace Church St. Louis and New Way Church do not speculate on the ways in which the Johnson Amendment may apply to them at some theoretical point in the future. Rather, they have each suffered through the enforcement of the Johnson Amendment and received political opposition for the exercise of rights otherwise protected by the First Amendment to the U.S. Constitution.

Grace Church St. Louis is a praying church in Maryland Heights, MO, committed to confronting a godless culture with the truth of God’s Word. Founded in 1970 when Senior Pastor Ron Tucker started a worship/Bible study in his home, Grace Church St. Louis now touches the lives of thousands weekly across its two campuses in Missouri and Illinois. The IRS launched an investigation of Grace Church St. Louis under the Johnson Amendment on April 30, 2024.

New Way Church describes itself in terms of family, hoping for the church to be a place where God is transforming lives one person, one couple, one family at a time. Pastor Richard and Kimberly Summerlin founded the church in 2006 when the church met in a local high school. In addition to the hundreds that gather at its primary campus in Palm Coast, Florida, New Way’s ministry reach extends to locations in Florida, Pakistan, Kenya, Haiti, and the Dominican Republic. The IRS launched an investigation of Grace Church St. Louis under the Johnson Amendment on June 14, 2024.

Both churches have an interest of avoiding future enforcement of the Johnson Amendment against them, while hoping houses of worship like them from across the country will benefit from the Court’s granting of the Joint Motion for Entry of Consent Judgement, ECF No. 35.

STATEMENT OF ISSUES

Consistent with Local Rule CV-7(a)(1), Grace Church St. Louis and New Way church declares that the issues in this *amicus* brief are: (1) the experience of the amici as targets of enforcement under the Johnson Amendment, (2) the threat the Johnson Amendment poses to Church Autonomy, (3) that the IRS shields the Johnson Amendment from judicial review while chilling core constitutional rights, and (4) that the Johnson Amendment violates the guarantees of the First Amendment and federal law in myriad ways.

SUMMARY OF ARGUMENT

In an act of political retribution, then-Senator Lyndon Baines Johnson chilled the guarantees of the First Amendment to the U.S. Constitution for the last 70+ years. His 31-word amendment to the Internal Revenue Code would tie his name to the suppression of church autonomy, free speech, religious liberty, and foment hostility toward religion billed as nonpartisanship. It would further give approval to intimidating tactics by agents of the IRS who, in the name of the law, would set upon pastors and houses of worship with oppressive demands to examine records, bank accounts, membership lists, bylaws, statements of faith, sermon manuscripts, church bulletins, church services and church-sponsored events, religious publications, and even call into question the prayers of the faithful. All the while, the IRS would dangle the carrot of compliance: cease anything resembling political activity and all will be forgiven; but, if we determine you have engaged in political activity, you lose your tax-exempt status.

The IRS does not grant tax-exemption to the nation's house of worship. Yet agents with the IRS, and those politically motivated to silence the voice of pastors and religious adherents, have insisted that they can punish those houses of worship they unilaterally determine to have violated the Johnson Amendment by revoking such exemptions. Thus, decades of IRS

enforcement has revealed the existence of a frustrating political scheme that chills constitutional guarantees: the only way to upend the law is to violate it—but only the IRS can say whether a house of worship is in violation. The futile irony is that even if the IRS were to punish a house of worship by revoking its prior tax-exempt recognition, the house of worship remains tax-exempt *ab initio*.

Because the Johnson Amendment is woefully out of step with this nation’s historic commitment to free speech, church autonomy, and religious liberty, it should be declared unlawful in its entirety and enjoined from ever being weaponized against houses of worship ever again. But for now, this Court should secure these constitutional commitments by granting the modest Joint Motion for Entry of Consent Judgement proposed by the parties, ECF No. 35.

ARGUMENT

I. Experience of the Amici Targeted by the IRS for Constitutionally Protected Activity.

a. Grace Church St. Louis

In 2022, during local school board elections, Grace Church St. Louis posted information on the church’s website about positions local candidates held as a service to, and a means of educating, their congregation about the important issues at stake in the local election. In addition, two members of the church put themselves forward as candidates after years of church leadership encouraging its members to take an active role in the community, including political office. The church encouraged its members to support their fellow members for being willing to run for office. By “support,” the church clearly meant to lend the encouragement and commendation to fellow parishioners who volunteered to run for office. Yet, others could see only the political meaning of the word, “support.”

The Editorial Board of the *St. Louis Post-Dispatch* was one such hostile group. In a March 9, 2022 editorial, the Board excoriated the church publicly, declaring that it “needs to decide what it wants to be. It can be a tax-exempt megachurch that tends to the spiritual needs of its flock, or it can be a political entity that endorses politicians and spreads misleading information about candidates the church opposes.”¹ The editors bragged that it “took us about 10 seconds to locate” the Johnson Amendment and, with an air of superiority and authority, summarily concluded that, “Grace Church has stepped far beyond the boundaries and deserves a thorough review of its tax-exempt status.” *Id.*

Perhaps the editors themselves notified the IRS. Or, maybe inspired by their bombast, a local citizen undertook to file a complaint with the IRS. However it started, the IRS opened an official investigation into the church over *two years* later during the Biden administration. If the IRS was so determined to enforce the Johnson Amendment and if violating the Johnson Amendment was of such a serious nature as to merit a full-blown investigation by the IRS and, possibly, the revocation of a church’s tax-exempt recognition, one wonders why the IRS would wait a full 783 days between the *Post-Dispatch*’s editorial and the announcement of the IRS’s investigation into Grace St. Louis.

In its late-arriving letter of April 30, 2024, the IRS stated its motivations plainly, “Our concerns are based on the content published on your website during tax year 2022 which potentially constitute political activity. Your website openly endorsed two of the members of your congregation who were running in a local school board election.” *See Exhibit A.* Despite taking more than two-years to launch its investigation, the IRS then invited the church to incriminate

¹ Editorial Board, *Editorial: Maryland Heights church deserves to have its tax-exempt status suspended*, *St. Louis Post Dispatch* (Mar. 9, 2022), <https://archive.is/NcqZl#selection-3473.23-3477.73>.

itself with such questions as:

- Did the Church publish flyers or voter information guides that provided a position either for or against a particular candidate for public office?
- Did the Church have a political candidate speak at the Church? If so, did the Church offer to have opposing candidates speak at the Church?
- Explain in detail what the Civic Engagement groups within the church do. What is their purpose and how do they accomplish the purpose?

Ignoring the fact that an affirmative answer to any of these questions would not violate the Johnson Amendment that the Federal government sanctioned such unconstitutional queries in the first place is troubling. How a church speaks to its members, what it says, who it invites to speak from its pulpit, or what function groups within its ministry perform are not subject to inspection and evaluation by the federal government. Yet, the Johnson Amendment gives the IRS sanction to impose itself upon the nation's houses of worship with audit-like powers and impose what it holds out as severe penalties.

Thankfully, the leaders of Grace Church St. Louis retained the undersigned counsel and, by the same, denied entry to the IRS. Though the IRS retreated and dismissed its investigation, the damage had already been done because the investigation was the punishment. A land that guarantees rights to free speech, free exercise, and association ought never countenance agents of the state examining the exercise of those rights by a pastor, congregation, or house of worship.

b. New Way Church

In the same year that Grace Church St. Louis received the ire of the local editorial board, New Way Church in Palm Coast, FL, received a visit one Sunday morning from a candidate for a local school board race. During the service, the pastor allowed the candidate to address the

congregation from the stage alongside the church's praise band. After talking about the importance of her faith and reasons for seeking the elected position, the pastor performed one of the most central and common of all duties of a Christian minister: he prayed for her.

Yet, this act of worship and Christian care did not escape the attention of the IRS either. In June of 2024—again *two years* after the supposedly offending deed—the IRS informed the church that it was investigating alleged violations of the so-called Johnson Amendment. *See* Exhibit B. As with Grace Church St. Louis, the IRS's letter to New Way posed improper and invasive questions, such as:

- [H]ow many people were in attendance and in what capacity were they there (e.g., church congregant)?
- What was the purpose of allowing Jill Woolbright to speak at an official church function of New Way Christian Fellowship Inc.?

And, true to form, the IRS did not miss a chance to invite the church to incriminate itself, asking such questions as:

- Have you participated in any political campaign intervention activities in 2022 that you have not mentioned in response to the above questions?
- In 2022, were you aware that by violating the prohibition on political activities outlined in IRC Section 501(c)(3) (without making a correction), that your tax-exempt status could be revoked or that you could be subject to excise taxes?

With the advantage of the advice of counsel, New Way Church declined the invitation to answer any of the IRS's questions, asserted the IRS had no authority to inspect the church in this manner, and invited the IRS to dismiss its investigation. It did, but the process left the pastor and his congregants shaken, annoyed, and wondering how the promises of the First Amendment could

so easily be laid aside by the Johnson Amendment.

II. The Johnson Amendment Upends Church Autonomy

a. The IRS merely recognizes what is already true: churches are tax exempt.

Many in the general population incorrectly believe that the IRS controls the exempt status of the nation's houses of worship. The common understanding is that when a church, synagogue, or mosque applies for 501(c)(3) status, the IRS weighs the merit of the application and grants or denies the exemption accordingly. While the IRS does evaluate the qualifications for 501(c)(3) tax-exempt status, it is *false* to say that the IRS *grants* a house of worship tax exemption.

In fact, according to the IRS's own publication, *Tax Guide for Churches & Religious Organizations* (Publication 1828 (Rev. 8-2015)), churches "are automatically considered tax exempt and are not required to apply for and obtain recognition of tax-exempt status from the IRS." I.R.S. Pub. 1828 at 2 (Rev. 8-2015), <https://www.irs.gov/pub/irs-pdf/p1828.pdf>; *see also* 26 U.S.C. §508(c)(1)(A). Nonetheless, many churches elect to seek recognition as a 501(c)(3) tax exempt organization to assure leadership, membership, and contributors that the church qualifies for tax exemption and other related tax benefits.

Thus, churches may claim tax-exempt status through two avenues: (1) by obtaining an advance tax-exemption ruling pursuant to IRC § 501(c)(3), which requires filing of an Exemption Application (IRS Form 1023), or (2) by simply holding itself out as a church and claiming tax-exempt status pursuant to IRC § 508. Importantly, the IRS considers a church tax exempt *during* the 501(c)(3) application period. Those so recognized by the IRS are exempt from federal income taxes and eligible to receive tax-deductible contributions, among other advantages. 26 U.S.C. §§ 501(a), 170(c)(2).

Section 501(c)(3) recognizes the tax-exempt status of entities "organized and operated exclusively for religious [or] charitable" purposes, provided that the organization "does not

participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.” 26 U.S.C. § 501(c)(3); 26 C.F.R § 1.501(c)(3)-1(c)(3)(iii) (“candidate for public office” applies at the national, State, and local level). The proviso against participating or intervening in political campaigns is commonly known as the “Johnson Amendment.”

b. The history of the Johnson Amendment and its chilling of constitutionally protected rights.

Then-Texas Senator Lyndon B. Johnson introduced the 31-words that prohibit participation in political campaigns in 1954. The alleged motivation for the language came after two wealthy Texans used tax-exempt organizations to support Johnson’s opponent in the primary election. Johnson won by a significant margin, but he was reportedly furious at the political opposition and took retribution in the form of amending the Internal Revenue Code. History records Johnson as the proponent of the language, but he offered no explanatory note with his amendment, nor is there even a record of who voted for or against it. The Johnson Amendment passed the U.S. Senate on a voice vote on July 12, 1954.

According to official IRS guidance, what constitutes prohibited political activity by a charitable nonprofit depends “on the facts and circumstances.” I.R.S. Pub. 1828 at 7. Examples of prohibited activity include conducting voter education activities in such a way that favors one candidate over another; inviting one candidate to speak, but purposefully not inviting other candidates; and providing goods, services, or facilities to some, but not all, candidates in a campaign.

Nonetheless, the IRS does not consider voter education activities “conducted in a non-partisan manner” to constitute political activity. Thus, a church may publish voter education guides, host voter registration drives, and even host nonpartisan candidate forums at the church

without running afoul of the Johnson Amendment. Whether a church steps over the thin line between partisan and non-partisan education is left to the broad discretion of the IRS, however, with little to no guidance for the average pastor, parishioner, or lay leader.

The wide-ranging language of the Johnson Amendment, and its potential application by the IRS, has led many religious leaders to avoid political topics entirely. Many political leaders have proposed alternatives to the Johnson Amendment and others have attempted to repeal it without success. In 2017, President Donald Trump signed an executive order directing the Department of the Treasury not to “take any adverse action against any individual, house of worship, or other religious organization on the basis that such individual or organization speaks or has spoken about moral or political issues from a religious perspective.” E.O. 13798, “Promoting Free Speech And Religious Liberty,” 82 FR 21675 (May 4, 2017). However, that order ended with his presidency—as demonstrated by the experiences of Grace Church St. Louis and New Way Church.

And, absent the repeal of the Johnson Amendment by Congress, and without this Court’s entry of the proposed Consent Judgement, future administrations will flip the impact of the Johnson Amendment on or off depending upon their political preferences—all the while chilling and unchilling the guarantees of free speech, free exercise, and church autonomy.

III. The IRS Shields the Johnson Amendment from Challenge While Chilling Constitutionally Protected Speech.

a. The futility of enforcing the Johnson Amendment.

The Supreme Court of the United States has never addressed the Johnson Amendment’s application to churches, and only a few federal courts have done so. Indeed, it took 46 years after the adoption of the Johnson Amendment for a federal appellate court to uphold the IRS’s revocation of a church’s tax-exempt status. *See Branch Ministries v. Rossotti*, 211 F.3d 137 (D.C.

Cir. 2000). No church's recognized tax exemption has been revoked under the Johnson Amendment since that case.

Branch Ministries operated Pierce Creek Church in New York. Ahead of the 1992 presidential election, Branch Ministries placed a full-page advertisement in the *USA Today* and *Washington Times* urging Christians not to vote for then-presidential candidate Bill Clinton due to his stance on certain moral issues. The IRS examined the church as a result and, in 1995, revoked its tax exemption. The church filed suit, but on appeal the U.S. Court of Appeals for the D.C. Circuit upheld the IRS's adverse action over arguments that it violated the First Amendment, the Religious Freedom Restoration Act ("RFRA"), and the Equal Protection Clause's prohibition on selective prosecution. The court noted that, should the church wish to engage in political activity, it could form a related 501(c)(4) organization, which in turn could form a Political Action Committee ("PAC") that "would be free to participate in political campaigns." *Id.* at 143.

Interestingly, although the court upheld the IRS's revocation decision, it noted that "the impact of the revocation is likely to be more symbolic than substantial." *Id.* at 142. After all, the revocation does not "necessarily make the Church liable for payment of taxes," as it "does not convert bona fide donations into income taxable to the Church." *Id.* at 143. Moreover, while no provision of law requires a church to file for tax-exempt status to have that status, the court noted that "we know of no authority, and counsel provided none, to prevent the Church from reapplying for" 501(c)(3) status "provided, of course, that it renounces future involvement in political campaigns." *Id.* at 143. In other words, the investigation of Branch Ministries and revocation of its tax-exempt status was an exercise in futility.

The court noted that the only immediate consequence of revocation would be felt, if at all, by the Church's donors. One benefit to churches of applying for 501(c)(3) status is that IRS

approval “provide[s] donors with advance assurance that their contributions will be deductible” from the donor’s taxable income. *Id.* at 139. “Donors to a church that has not received an advance determination of its tax-exempt status may also deduct their contributions; but in the event of an audit, the [donor] will bear the burden of establishing that the church meets the requirements of section 501(c)(3).” *Id.* Thus, revocation of Branch Ministries’ 501(c)(3) status removed “the advance assurance of deductibility in the event a donor should be audited,” in which event the donor would bear the burden “to establish that the Church meets the requirements of 501(c)(3).” *Id.* at 142–43.

In sum, then, even after the IRS revoked Branch Ministries’ tax exemption—and a court upheld that revocation—Branch Ministries remained tax exempt, although its donors might have borne an additional burden of proof in any audit. Why? Because the IRS does not *grant* tax exemption to churches, it merely *recognizes* what is already true: houses of worship are tax-exempt entities.

Other cases have examined application of § 501(c)(3)’s conditions, including both its clause prohibiting substantial efforts to “influence” legislation and the Johnson Amendment. Almost 30 years before *Branch Ministries*, a federal appellate court upheld revocation of the tax exemption of a religious radio ministry rather than a church. That exemption rested on the ministry’s extensive efforts to influence legislation to restore prayer in public schools. *See Christian Echoes Nat’l Ministry, Inc. v. United States*, 470 F.2d 849 (10th Cir. 1972). In 1988, the Bar of New York City lost its tax exemption to the Johnson Amendment for publishing nonpartisan ratings of candidates for elective judgeships. *See Ass’n of the Bar of N.Y. v. Comm’r*, 858 F.2d 876 (2d Cir. 1988). And in *Regan v. Taxation with Representation*, 461 U.S. 540, 551 (1983), the U.S. Supreme Court upheld the IRS’s denial of an organization’s application for

nonprofit recognition under the clause that prohibits a 501(c)(3) organization from devoting “a substantial part of [its] activities” to “attempting[] to influence legislation.” 26 U.S.C. § 501(c)(3). Yet, that case did not involve a church or religious organization.

b. The onerous process of a church tax inquiry under the Johnson Amendment.

Congress imposed special procedures on how and when the IRS may conduct civil tax inquiries and examinations of churches. The IRS may begin a church tax inquiry only if an appropriate high-level Treasury official reasonably believes, based on facts and circumstances recorded in writing, that the church may not qualify for an exemption. While the IRS is required to obtain the approval of a high-level Treasury official prior to launching a church tax inquiry and says as much in inquiries under the Johnson Amendment, the identity of that person is not included, nor has the IRS provided that information in response to such public records requests submitted by the undersigned. In fact, the undersigned counsel has sought copies of all such inquiries launched under the Johnson Amendment only to be told that such are not subject to disclosure under public records laws.

In any event, Federal law provides a 90-day period for the church to respond in writing to address the IRS’s concerns. If this response does not sufficiently alleviate the IRS’s concerns, the IRS may issue a second notice, generally within 90 days, informing the church of a need to examine its books and records. After issuing the second notice, but before starting any examination of church records, the church may request a conference with the IRS to discuss and attempt to resolve concerns about the examination. Reference by the IRS to “church records” contemplates “all corporate and financial records regularly kept by a church, including corporate minute books and lists of members and contributors.” 26 U.S.C. § 7611(h)(4)(A). The IRS must complete its examination within 2 years of launch, *id.* § 7611(c)(1), and it may examine church conduct only from the prior 3 years to determine tax-exempt eligibility, *id.* § 7611(d)(2)(A).

At any point during the inquiry, if the church's responses satisfy the IRS's concerns, the IRS will close the matter without examining the church's records. Additionally, after this type of inquiry, the IRS generally cannot conduct a subsequent examination of the church for a 5-year period unless the previous examination resulted in a revocation of tax-exempt status, a notice of deficiency of assessment, or a request for significant change in church operations, such as significant change in accounting practices. *Id.* § 7611(f)(1); *see also* IRS, *Church Audit Process* (last updated Dec. 4, 2023), <https://www.irs.gov/charities-non-profits/churches-religious-organizations/church-audit-process>.

c. The potential penalties available to the IRS to exert upon houses of worship it determines have violated the Johnson Amendment.

In addition to dragging a church or house of worship through two-year long investigation and the general chill the Johnson Amendment imposes upon constitutional guarantees, the IRS has more tangible means of punishment for entities it determines violate the Johnson Amendment. Such penalties include:

1. Revoking the entity's 501(c)(3) status, *see Branch Ministries*, 211 F.3d 137;
2. In cases involving political expenditures by the entity, recovering a 10% tax on all such expenditures, *see* 26 U.S.C. § 4955; and
3. In cases of "flagrant violation[s] of the prohibition against making political expenditures," immediately assessing all taxes due, *id.* § 6852, for the 6 most recent taxable years, *id.* § 7611(d)(2)(A)(ii), and seeking injunctive relief in federal court, *id.* § 7409.

On the less severe end, the IRS may issue a written advisory noting that the church engaged in campaign activity but declining to impose a penalty because of mitigating factors. For example, in 2004 and 2006, during the IRS's short-lived Political Activity Compliance Initiative, it declined to withdraw exemptions from churches that deliberately violated the Johnson Amendment, opting

instead to issue written advisories. Those violations included “distribution of church bulletins and inserts supporting or opposing candidates, church officials supporting or opposing candidates during services or church functions, candidates being allowed to use church facilities, and distribution of biased voter guides and candidate ratings.” *Churches and Campaign Activity: Analysis Under Tax and Campaign Finance Laws* 7–8, Congressional Research Service (Oct. 9, 2012), available at https://www.everycrsreport.com/files/20121009_RL34447_22d86a9c9b98adb4e9846c34dccff3dc741b652.pdf. In those cases, mitigating factors included whether the churches’ violations only occurred once, whether they were done in good faith reliance on the advice of counsel, whether the church corrected the conduct, and whether the church took steps to prevent future violations. *Id.*

Despite many alleged violations, only two churches have ever lost their tax-exempt status during the Johnson Amendment’s existence and only two others have been required to pay excise taxes. *See id.* (citing *Review of Internal Revenue Code Section 501(c)(3) Requirements for Religious Organizations: Hearing on H.R. 2357 Before the Subcomm. on Oversight of the H. Comm. on Ways & Means*, 107th Cong. 80 (2002) (statement of Rep. Karen L. Thurman, Member, Subcomm. on Oversight)).

d. The doctrine of Taxpayer Standing insulates the Johnson Amendment from challenge until it’s too late while inviting the political targeting of constitutional rights.

Complaints concerning the Johnson Amendment may echo in the sanctuaries of the nation’s churches or find debate in the halls of Congress, but rarely gain a hearing in the nation’s Article III courts. The reason for this is simple: taxpayer standing. The clear holding of the U.S. Supreme Court—for over 100 years—is that complaints of a general nature cannot support a taxpayer’s legal action against a statute’s validity. *See Commonwealth of Massachusetts v. Mellon*, 262 U.S. 447 (1923) (denying judicial review of federal statutes based upon general complaints by

taxpayers). The court admitted “no power per se to review and annul acts of Congress on the ground that they are unconstitutional.” *Id.* at 488. Rather, such complaints may be heard by Article III courts “only when the justification for some direct injury suffered or threatened.” *Id.* Thus, to invoke the court’s jurisdiction, a taxpayer “must be able to show, not only that the statute is invalid, but that he has sustained or is immediately in danger of sustaining some direct injury as the result of its enforcement, and not merely that he suffers in some indefinite way in common with people generally.” *Id.*

Even if *Flast v. Cohen* may extend access to the Federal courts in cases invoking the First Amendment’s Free Exercise Clause, even there a party must have standing to challenge a statute that specifically works to his immediate injury “and not on the issues he wishes to have adjudicated.” *Flast v. Cohen*, 392 U.S. 83, 99 (1968). Article III courts require a redressable injury and are not in the business of issuing advisory opinions. And, for an issue like the Johnson Amendment, though a great many retain political disagreement with its continuation, even if “a party may have standing in a particular case . . . the federal court may nevertheless decline to pass on the merits of the case because, for example, it presents a political question.” *Id.* at 100.

Absent Congressional repeal, faith leaders threatened by the Johnson Amendment have little recourse but to wait and see whether the IRS will enforce the Johnson Amendment against them. But, even if it were to open an investigation against a house of worship accused of violating the Johnson Amendment, the IRS determines its own future. It can either fully enforce the Johnson Amendment sufficient to give injury to a litigant and, thus, standing to challenge the law in court, or it can unilaterally end any such investigation and deprive a house of worship of an injury sufficient to afford standing. Neither removes the threat of enforcement against pastors, priests,

and parishioners who must guess whether their sermon, prayer, or educational activity violates the Johnson Amendment.

Thus, the fox guards the henhouse. One Executive may direct his IRS to suspend enforcement of the Johnson Amendment, while another may direct the IRS to enforce it aggressively. *See Fonticiella v. Comm'r of Internal Revenue*, 117 T.C.M. (CCH) 1377 (T.C. 2019) (“The President retains full oversight of the [IRS] Commissioner,” who exercises “delegated authority” in his supervision of the IRS as a bureau of the Department of the Treasury). What results not only chills constitutionally protected activity, but also invites abuse. Thus, while New Way’s prayer for a local school board member and Grace Church’s provision of educational information warrants an investigation by the IRS (which, at the time of the investigation, was controlled by President Joe Biden), we are aware of no such investigation when President Biden stumbled for re-election in a Philadelphia church.² Nor did the IRS announce its enforcement of the Johnson Amendment following a campaign event by Vice President Kamala Harris mere days before Election Day 2024.³ Too be sure, both churches should have had the right to host President Biden or Vice President Harris in the very manner in which they did. The point nonetheless remains: the Johnson Amendment remains a threat to core constitutional rights, deployed (or not) at a time and choosing determined by a Presidential administration’s political motivation, but otherwise shielded from judicial review by the doctrine of taxpayer standing.

Until Congress deletes the Johnson Amendment from the Internal Revenue Code, which it should do at the earliest opportunity, it falls to the Executive and his delegated authority to

² Carmen Russel-Sluchansky, *Biden joins sermon at Church of God in Christ during 6th campaign visit to Philadelphia*, WHYY (July 7, 2024, 7:04 PM), <https://whyy.org/articles/biden-pennsylvania-mount-airy-church-visit/>.

³ Alexandra Simon and Dan Snyder, *Harris tells Philadelphia church election will ‘decide the fate of our nation for generations to come,’* CBS News (Oct. 28, 2024, 4:48 AM), <https://www.cbsnews.com/philadelphia/news/kamala-harris-philadelphia-campaign-rally/>.

administer the IRS, including the Johnson Amendment. If that be so, then it is entirely within the Executive's prerogative to direct the IRS to agree to the consent decree now before this Court and urge the Court to bind its enforcement power in the manner described therein. We agree and urge the Court to grant the Joint Motion.

IV. The Johnson Amendment Violates the Guarantees of Free Speech and Religious Liberty in Multiple Ways.

a. The doctrine of Church Autonomy undermines the Johnson Amendment's power.

The First Amendment's Religion Clauses protect the "power" of "religious organizations" to "decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171, 186 (2012). Pastors' approach to politics and voting are necessarily informed by Biblical teachings and the church's doctrine. Despite what the Johnson Amendment threatens, the government cannot control what a pastor speaks from the pulpit, nor what churches consider to be part and parcel a matter of religious duty—even where they consider engaging in speech regarding political campaigns part of that duty. To monitor and control religious speech by a church presupposes the ability of the government to regulate the church and, worse, dictate what is or is not a matter of religion. *See also Watson v. Jones*, 80 U.S. (13 Wall.) 697, 733 (1871); *Jones v. Wolf*, 443 U.S. 595, 602 (1979); *see also Branch Ministries*, 211 F.3d at 142 (recognizing that First Amendment challenge to the Johnson Amendment might have succeeded if the church had maintained that "a withdrawal from electoral politics would violate its beliefs").

b. The Free Exercise Clause of the First Amendment to the U.S. Constitution protects against the Johnson Amendment's threats.

While the Johnson Amendment may appear to regulate all nonprofits neutrally, religious nonprofits (especially churches and their auxiliaries) are different and given special solicitude under the First Amendment and federal law. Indeed, the Constitution places religious freedom in

a “preferred position.” *Murdock v. Com. of Pennsylvania*, 319 U.S. 105, 115 (1943). And religious speech is “doubly protect[ed].” *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 523 (2022).

Moreover, the Religious Freedom Restoration Act (“RFRA”), 42 U.S. C. § 2000bb, *et seq*, requires laws restricting the free exercise of religion—like the Johnson Amendment—to be narrowly tailored to further a compelling interest. Thus, even if the IRS might enforce the Johnson Amendment against secular nonprofits, any such enforcement against religious nonprofits, like churches, unconstitutionally burdens the free exercise of religion. More specifically still, churches are given even greater protection than traditional nonprofit organizations or even *religious* nonprofit organizations. Thus, even if the IRS may enforce the Johnson Amendment against secular nonprofits and require certain religious nonprofits to form a separate, but related, 501(c)(4) organization for purposes of political/legislative involvement, enforcement against churches—who, according to the IRS, are “automatically considered tax exempt” where others are not—presents even greater unconstitutional burdens upon the free exercise of religion.

c. The Johnson Amendment violates the Free Speech Clause of the First Amendment to the U.S. Constitution.

The First Amendment insists upon more speech rather than less in order “to assure the unfettered interchange of ideas for [the] bringing about of political and social changes desired by the people.” *FCC v. League of Women Voters*, 468 U.S. 364, 403 (1984) (Rehnquist, J., dissenting). In the context of political dialogue, that means that the “First Amendment protects speech and speaker, and the ideas that flow from each.” *Citizens United v. Federal Election Comm’n*, 558 U.S. 310, 341 (2010).

While *Citizens United* expanded the free speech rights available to corporations, the Supreme Court’s jurisprudence has not yet addressed whether political speech restrictions on tax-exempt churches are effectively more restrictive than those on non-religious, non-tax-exempt

entities. But, given the Supreme Court’s recent insistence that the Free Speech and Free Exercise Clauses of the First Amendment “work in tandem” to provide “overlapping protection for expressive religious activities” thus “doubly protect[ing] religious speech,” it seems likely that churches, if anyone, should be afforded greater protections against intrusion upon religious speech. *Kennedy*, 597 U.S. at 523–24; *see also Shurtleff v. City of Bos., Massachusetts*, 596 U.S. 243, 252 (2022) (In determining whether government intends “to regulate private expression,” key factors include “the history of the expression at issue; the public’s likely perception as to who (the government or a private person) is speaking; and the extent to which the government has actively shaped or controlled the expression.”).

For the IRS to insist that a church form a separate organization—a 501(c)(4) or 527 Political Action Committee—to engage in religious speech that touches upon matters political unconstitutionally burdens that right. Indeed, such speech is not speech by the church, but by a different entity entirely. If there is “[n]o sufficient governmental interest [justifying] limits on the political speech of nonprofit or for-profit corporations” regarding corporate expenditures for express political advocacy, surely the tax code cannot be used to regulate a church’s constitutional rights. *Citizens United* 558 U.S. at 365.

A Free Speech challenge could also argue that the threat of disclosing lists of church members and church donor information pursuant to IRC § 7611(h)(4)(A) chills the church’s speech and is unconstitutional under a heightened level of scrutiny. *See Am. for Prosperity Foundation v. Bonta*, 594 U.S. 595, 612–19 (2021); *NAACP v. State of Ala.*, 357 U.S. 449, 461, (1958) (“In the domain of these indispensable liberties, whether of speech, press, or association, the decisions of this Court recognize that abridgement of such rights, even though unintended, may inevitably follow from varied forms of governmental action.”).

- d. Enforcement of the Johnson Amendment against houses of worship constitutes unlawful viewpoint discrimination.*

Since tax exemptions cannot be considered government speech, a church does not relinquish its fundamental rights of speech and religion. They are thus free to speak for themselves upon topics of their choosing, expressing viewpoints of their own. Government cannot insist that a religious organization express, or prevent from expressing, a particular viewpoint. *See Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 829 (1995) (“The government must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.”).

- e. Giving the IRS nearly unfettered discretion to enforce the Johnson Amendment invites inequitable, politically-motivated application of the law.*

The Internal Revenue Code, and specifically the Johnson Amendment, gives significant, nearly unfettered discretion to the IRS to determine what constitutes participation or intervention in a political campaign or any candidate for public office. Such discretion can easily be abused, especially regarding religious speech from the pulpit. *See Fulton v. City of Phila.*, 141 S. Ct. 1868, 1877 (2021) (“A law is not generally applicable if it invite[s] the government to consider the particular reasons for a person's conduct by providing a mechanism for individualized exemptions.”) (internal quotations removed). That is especially likely given that the IRS allows other secular organizations—even nonprofit organizations—to engage in the very speech it prohibits of churches. Thus, a law “prohibits religious conduct while permitting secular conduct that undermines the government's asserted interests in a similar way” will also lack the requisite neutrality demanded by the First Amendment. *Id.*

f. Since 1954, the Johnson Amendment has bred unlawful hostility toward religion by the government and fomented it within the American culture.

Government must always be respectful toward religious exercise. Yet, government officials have often demonstrated hostility toward religion in the enforcement of its laws. For instance, in *Masterpiece Cakeshop*, the State of Colorado held baker Jack Phillips, in derision for his religious beliefs. As the Supreme Court noted, “[t]he Free Exercise Clause bars even ‘subtle departures from neutrality’ on matters of religion.” *Masterpiece Cakeshop, Ltd. v. Colorado C.R. Comm’n*, 584 U.S. 617 (2018) (quoting *Church of Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U.S. 520, 534 (1993)). To further drive the point, the Court later concluded that “[g]overnment fails to act neutrally when it proceeds in a manner intolerant of religious beliefs or restricts practices because of their religious nature.” *Fulton*, 141 S.Ct. at 1877. The past behavior of IRS agents like Lois Lerner, former Director of Exempt Organization for the IRS, suggest that the inquiry against houses of worship in enforcing the Johnson Amendment could be motivated by more than mere enforcement. Indeed, further investigation may reveal open hostility to the religious beliefs of America’s houses of worship in violation of the Constitution.

In May of 2021, the IRS denied tax exempt status to Christians Engaged, a Christian nonprofit formed to educate and empower everyday Americans to pray for its elected officials, vote, and be civically engaged. Bizarrely, in its determination letter, the IRS would not even use the phrase, “Word of God,” a common reference to the Christian Bible. *See* Exhibit C. Rather, it substituted the letter “M” throughout its letter denying Christians Engaged tax exemption. The IRS denied their application after it determined the Christian organization’s “educational activities were not neutral” because the topics typically on which Christians Engaged educated were “associated with political party platforms” and often “affiliated with distinct candidates.” *Id.*

More bluntly, the IRS claimed it was required to deny their application because, Christians Engaged “instruct[ed] individuals on how Christians should use the Bible and vote the Bible.” *Id.*

Such a negative determination letter reflects not only the ignorance of IRS agents tasked with following its own rules related to religious organizations and houses of worship, but also reveals and encourages a hostility toward religion that the Supreme Court has rightly labeled as “odious to the Constitution . . . and cannot stand.” *Trinity Lutheran Church of Columbia v. Comer*, 582 U.S. 449, 467 (2017).

g. America’s history and tradition counsels against the continuation of the Johnson Amendment’s application against houses of worship.

After abandoning its *Lemon* test, the Supreme Court has increasingly emphasized history, historical practices, and original meaning in the First Amendment context. *See, e.g., Kennedy*, 597 U.S. at 535; *Am. Legion v. Am. Humanist Ass’n*, 588 U.S. 29, 50–52 (2019); *Shurtleff v. City of Boston*, 596 U.S. 243, 287 (2022) (Gorsuch, J., concurring) (endorsing historical understanding of the First Amendment’s original meaning); *Town of Greece v. Galloway*, 572 U.S. 565, 576 (2014).

American pastors have historically spoken on political issues and candidates. *See generally* Shawn A. Voyles, Comment, *Choosing Between Tax-Exempt Status and Freedom of Religion: The Dilemma Facing Politically-Active Churches*, 9 Regent U. L. Rev. 219, 226–30 (1997). Even before the Revolution, “patriotic clergymen told their congregations that failure to oppose British tyranny would be an offense in the sight of Heaven.” Patricia U. Bonomi, *Under The Cope Of Heaven: Religion, Society, And Politics In Colonial America* 216 (updated ed. 2003). A few years later, in the late 1700s and early 1800s, Virginia Baptists, under John Leland’s leadership, endorsed James Madison’s campaign for the Virginia Ratifying Convention and U.S. House of Representatives—thus playing a crucial factor in passing the First Amendment—and Thomas Jefferson’s campaign for President. *See* Reece Barker, *A Memorial and Remonstrance Against*

Taxation of Churches, 47 B.Y.U. L. Rev. 1001, 1031 (2022). Churches played a key role on both sides of the presidential election of 1800; while the Virginia Baptists supported Jefferson, on the other side, Dutch Reformed minister, Rev. William Linn, attacked Jefferson’s candidacy through print, charging Jefferson as a deist who never observes the Lord’s Day. *See* Voyles, *supra*, at 227.

The Johnson Amendment further departs from the long historical tradition in the United States of granting tax-exemptions to churches. Prior to the American Revolution, most colonies provided tax relief to churches, and Congress introduced its first tax exemption for churches in 1802. *See* Vaughn E. James, *The African-American Church, Political Activity and Tax Exemption*, 37 Seton Hall L. Rev. 371, 376 (2007). As the Supreme Court has long acknowledged, “[f]ew concepts are more deeply embedded in the fabric of our national life, beginning with pre-Revolutionary colonial times, than for the government to exercise at the very least this kind of benevolent neutrality toward churches and religious exercise” *Walz v. Tax Comm’n of New York*, 397 U.S. 664, 676 (1970). The Supreme Court has not considered church tax exemptions from an originalist perspective, but such historical arguments improve the chances that the Court would invalidate the Johnson Amendment if ever presented with such a case.

h. The government cannot place unconstitutional conditions to compel a house of worship to comply with the Johnson Amendment.

Through enforcement of the Johnson Amendment, the government cannot compel a church to forgo its constitutional rights to receive the same tax exemption all other similarly situated organizations receive. Indeed, “if the government could deny a benefit to a person because of his constitutionally protected speech or associations, his exercise of those freedoms would in effect be penalized and inhibited . . . Such interference with constitutional rights is impermissible.” *Perry v. Sindermann*, 408 U.S. 593, 597 (1972).

CONCLUSION

For all the reasons stated herein, the Court should GRANT the Joint Motion for Entry of Consent Judgement, ECF No. 35.

Dated: August 5, 2025

Respectfully Submitted,

/s/ Jeremiah G. Dys

Jeffrey C. Mateer

TX Bar No. [REDACTED]
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Hiram S. Sasser III

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CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2025, I electronically filed this motion with the Clerk of the Court for the United States District for the Eastern District of Texas by using the CM/ECF system. Counsel in this case are registered CM/ECF users and service will be accomplished using the CM/ECF system.

/s/ Jeremiah G. Dys

EXHIBIT A



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
1111 Constitution Avenue, NW
TE/GE, SE:T, NCA-660
Washington, DC 20224

GRACE CHURCH SAINT LOUIS
[REDACTED]

Date:

04/30/2024

Taxpayer ID number:

Form:

990

Tax periods ended:

12/31/2022

Person to contact:

Name: Brian Schroeder

ID number: 1000909102

Telephone: 313-234-1368

Fax: 855-234-1429

Manager's contact information:

Name: Jerry Morrow

ID number: 1000923742

Telephone: 313-234-1307

Response due date:

05/30/2024

Certified Mail - Return Receipt Requested [Certified Mail Label]

Dear GRACE CHURCH SAINT LOUIS:

Why we're sending you this letter

We have some questions about your tax-exempt status as a church under Internal Revenue Code (IRC) Section 501(a).

Our concerns are based on the content published on your website during tax year 2022 which potentially constitute political activity. Your website openly endorsed two of the members of your congregation who were running in a local school board election. Additionally, your website contained a list of fourteen other candidates that were part of various local elections. Your website made statements in either opposition or endorsement of these candidates. All section 501(c)(3) organizations, including churches, their integrated auxiliaries, conventions or associations of churches are prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office.

We can conduct inquiries and examinations to determine the accuracy of any tax return, create a return when a taxpayer doesn't file one, and determine the tax liability of any person or organization (IRC Section 7602). However, IRC Section 7611 imposes restrictions on us when conducting tax inquiries and examinations of churches and conventions or associations of churches. IRC Section 7611 protects the rights of churches and provides a framework for us to resolve questions about their tax liability and tax-exempt status and to enforce the internal revenue laws.

As Commissioner, Tax Exempt and Government Entities, I have a reasonable belief that you may not be tax-exempt as a church under IRC Section 501(a). I'm approving this church tax inquiry as described in IRC Section 7611(a).

What you need to do

Respond to the enclosed Church Tax Inquiry Questions by the response due date shown above. Answer each question completely. If your responses resolve our concerns, we'll close our inquiry.

Send your response using one of the following methods:

- Upload your response using secure messaging: IRS secure messaging provides a safe means for exchanging information with IRS online. Secure messaging information is available at **IRS.gov/TEGEconnect**. Enclosed is Publication 5295, Secure Messaging for Tax Exempt and Government Entities, which provides additional information about secure messaging. Scan the QR code below for information.
- Fax your response to the fax number at the top of this letter using either a fax machine or an online fax service. Protect yourself when sending digital data by understanding the fax service's privacy and security policies.
- Mail your response to:



Attention: Brian Schroeder, Internal Revenue Agent
Internal Revenue Service
Mail Stop TEGE:EO:7936
985 Michigan Avenue
Detroit, MI 48226

What will happen if you don't respond or send an incomplete response

If we don't hear from you by the response due date shown above or if we receive an incomplete response, we may issue Letter 5309, Notice of Church Examination, and begin examining your records or religious activities.

Taxpayer rights and sources for assistance

The enclosed Publication 5328, Statement of Administrative and Constitutional Rights, explains your administrative and constitutional rights during a tax inquiry and examination. You're entitled to a conference with us to discuss our concerns before we begin an examination. If we send you a Notice of Church Examination, we'll offer you the opportunity for a conference.

The Internal Revenue Code (IRC) gives taxpayers specific rights. The Taxpayer Bill of Rights groups these into 10 fundamental rights. See IRC Section 7803(a)(3). IRS employees are responsible for being familiar with and following these rights. For additional information about your taxpayer rights, please see the enclosed Publication 1, Your Rights as a Taxpayer, and Notice 609, Privacy Act Notice, or visit **IRS.gov/taxpayer-bill-of-rights**.

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that helps taxpayers and protects taxpayers' rights. TAS can offer you help if your tax problem is causing a financial difficulty, you've tried but been unable to resolve your issue with the IRS, or you believe an IRS system, process, or procedure isn't working as it should. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. To learn more, visit **taxpayeradvocate.irs.gov** or call 877-777-4778.

Tax professionals who are independent from the IRS may be able to help you.

State bar associations, state or local societies of accountants or enrolled agents, or other nonprofit tax professional organizations may also be able to provide referrals.

If you submitted a Form 2848, Power of Attorney and Declaration of Representative, or Form 8821, Tax Information Authorization, and asked us to send your authorized representative or appointee copies of written communications, we'll send a copy of this letter to them.

For more information, see the enclosed Publication 1, Your Rights as a Taxpayer and Notice 609, Privacy Act Notice.

If you have questions, you can call the person shown above.

Sincerely,

Edward T.

Killen

Digitally signed by Edward T.

Killen

Date: 2024.04.28 22:51:16

-04'00'

Edward T. Killen

Commissioner

Tax Exempt and Government Entities Division

Enclosures:

Church Tax Inquiry Questions

Publication 5328

Publication 5295

Publication 1

Notice 609

Church Tax Inquiry Questions

Date:

Questionnaire Completed by (Name and Title):

FOR TAX YEAR 2022:

1. Does the Church have a policy on political activities? If yes, explain and give more details as they relate to the policy for year 2022.
2. Did the Church endorse any candidates for public office? According to a newspaper article and an editorial in the St. Louis Post-Dispatch, the Church published on its website an endorsement of two of its congregants, Linda Henning and Jeff Mintzlaff, for local school board office elections.
3. Did the Church use social media platforms and/or websites to provide a position either for or against a candidate for public office? If so, please explain and give more details.
4. Did the Church publish flyers or voter information guides that provided a position either for or against a particular candidate for public office?
5. Did the Church make contributions to a candidate for public office?
6. Did the Church have a political candidate speak at the Church? If so, did the Church offer to have opposing candidates speak at the Church?
7. Explain in detail what the Civic Engagement groups within the church do. What is their purpose and how do they accomplish the purpose?



Your Rights as a Taxpayer

Publication 1

This publication explains your rights as a taxpayer and the processes for examination, appeal, collection, and refunds. Also available in Spanish.

The Taxpayer Bill of Rights

1. The Right to Be Informed

Taxpayers have the right to know what they need to do to comply with the tax laws. They are entitled to clear explanations of the laws and IRS procedures in all tax forms, instructions, publications, notices, and correspondence. They have the right to be informed of IRS decisions about their tax accounts and to receive clear explanations of the outcomes.

2. The Right to Quality Service

Taxpayers have the right to receive prompt, courteous, and professional assistance in their dealings with the IRS, to be spoken to in a way they can easily understand, to receive clear and easily understandable communications from the IRS, and to speak to a supervisor about inadequate service.

3. The Right to Pay No More than the Correct Amount of Tax

Taxpayers have the right to pay only the amount of tax legally due, including interest and penalties, and to have the IRS apply all tax payments properly.

4. The Right to Challenge the IRS's Position and Be Heard

Taxpayers have the right to raise objections and provide additional documentation in response to formal IRS actions or proposed actions, to expect that the IRS will consider their timely objections and documentation promptly and fairly, and to receive a response if the IRS does not agree with their position.

5. The Right to Appeal an IRS Decision in an Independent Forum

Taxpayers are entitled to a fair and impartial administrative appeal of most IRS decisions, including many penalties, and have the right to receive a written response regarding the Office of Appeals' decision. Taxpayers generally have the right to take their cases to court.

6. The Right to Finality

Taxpayers have the right to know the maximum amount of time they have to challenge the IRS's position as well as the maximum amount of time the IRS has to audit a particular tax year or collect a tax debt. Taxpayers have the right to know when the IRS has finished an audit.

7. The Right to Privacy

Taxpayers have the right to expect that any IRS inquiry, examination, or enforcement action will comply with the law and be no more intrusive than necessary, and will respect all due process rights, including search and seizure protections, and will provide, where applicable, a collection due process hearing.

8. The Right to Confidentiality

Taxpayers have the right to expect that any information they provide to the IRS will not be disclosed unless authorized by the taxpayer or by law. Taxpayers have the right to expect appropriate action will be taken against employees, return preparers, and others who wrongfully use or disclose taxpayer return information.

9. The Right to Retain Representation

Taxpayers have the right to retain an authorized representative of their choice to represent them in their dealings with the IRS. Taxpayers have the right to seek assistance from a Low Income Taxpayer Clinic if they cannot afford representation.

10. The Right to a Fair and Just Tax System

Taxpayers have the right to expect the tax system to consider facts and circumstances that might affect their underlying liabilities, ability to pay, or ability to provide information timely. Taxpayers have the right to receive assistance from the Taxpayer Advocate Service if they are experiencing financial difficulty or if the IRS has not resolved their tax issues properly and timely through its normal channels.

The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

Examinations, Appeals, Collections, and Refunds

Examinations (Audits)

We accept most taxpayers' returns as filed. If we inquire about your return or select it for examination, it does not suggest that you are dishonest. The inquiry or examination may or may not result in more tax. We may close your case without change; or, you may receive a refund.

The process of selecting a return for examination usually begins in one of two ways. First, we use computer programs to identify returns that may have incorrect amounts. These programs may be based on information returns, such as Forms 1099 and W-2, on studies of past examinations, or on certain issues identified by compliance projects. Second, we use information from outside sources that indicates that a return may have incorrect amounts. These sources may include newspapers, public records, and individuals. If we determine that the information is accurate and reliable, we may use it to select a return for examination.

Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund, explains the rules and procedures that we follow in examinations. The following sections give an overview of how we conduct examinations.

By Mail

We handle many examinations and inquiries by mail. We will send you a letter with either a request for more information or a reason why we believe a change to your return may be needed. You can respond by mail or you can request a personal interview with an examiner. If you mail us the requested information or provide an explanation, we may or may not agree with you, and we will explain the reasons for any changes. Please do not hesitate to write to us about anything you do not understand.

By Interview

If we notify you that we will conduct your examination through a personal interview, or you request such an interview, you have the right to ask that the examination take place at a reasonable time and place that is convenient for both you and the IRS. If our examiner proposes any changes to your return, he or she will explain the reasons for the changes. If you do not agree with these changes, you can meet with the examiner's supervisor.

Repeat Examinations

If we examined your return for the same items in either of the 2 previous years and proposed no change to your tax liability, please contact us as soon as possible so we can see if we should discontinue the examination.

Appeals

If you do not agree with the examiner's proposed changes, you can appeal them to

the Appeals Office of the IRS. Most differences can be settled without expensive and time-consuming court trials. Your appeal rights are explained in detail in both Publication 5, Your Appeal Rights and How To Prepare a Protest If You Don't Agree, and Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund.

If you do not wish to use the Appeals Office or disagree with its findings, you may be able to take your case to the U.S. Tax Court, U.S. Court of Federal Claims, or the U.S. District Court where you live. If you take your case to court, the IRS will have the burden of proving certain facts if you kept adequate records to show your tax liability, cooperated with the IRS, and meet certain other conditions. If the court agrees with you on most issues in your case and finds that our position was largely unjustified, you may be able to recover some of your administrative and litigation costs. You will not be eligible to recover these costs unless you tried to resolve your case administratively, including going through the appeals system, and you gave us the information necessary to resolve the case.

Collections

Publication 594, The IRS Collection Process, explains your rights and responsibilities regarding payment of federal taxes. It describes:

- What to do when you owe taxes. It describes what to do if you get a tax bill and what to do if you think your bill is wrong. It also covers making installment payments, delaying collection action, and submitting an offer in compromise.
- IRS collection actions. It covers liens, releasing a lien, levies, releasing a levy, seizures and sales, and release of property.
- IRS certification to the State Department of a seriously delinquent tax debt, which will generally result in denial of a passport application and may lead to revocation of a passport.

Your collection appeal rights are explained in detail in Publication 1660, Collection Appeal Rights.

Innocent Spouse Relief

Generally, both you and your spouse are each responsible for paying the full amount of tax, interest, and penalties due on your joint return. However, if you qualify for innocent spouse relief, you may be relieved of part or all of the joint liability. To request relief, you must file Form 8857, Request for Innocent Spouse Relief. For more information on innocent spouse relief, see Publication 971, Innocent Spouse Relief, and Form 8857.

Potential Third Party Contacts

Generally, the IRS will deal directly with you or your duly authorized representative.

However, we sometimes talk with other persons if we need information that you have been unable to provide, or to verify information we have received. If we do contact other persons, such as a neighbor, bank, employer, or employees, we will generally need to tell them limited information, such as your name. The law prohibits us from disclosing any more information than is necessary to obtain or verify the information we are seeking. Our need to contact other persons may continue as long as there is activity in your case. If we do contact other persons, you have a right to request a list of those contacted. Your request can be made by telephone, in writing, or during a personal interview.

Refunds

You may file a claim for refund if you think you paid too much tax. You must generally file the claim within 3 years from the date you filed your original return or 2 years from the date you paid the tax, whichever is later. The law generally provides for interest on your refund if it is not paid within 45 days of the date you filed your return or claim for refund. Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund, has more information on refunds.

If you were due a refund but you did not file a return, you generally must file your return within 3 years from the date the return was due (including extensions) to get that refund.

Taxpayer Advocate Service

TAS is an *independent* organization within the IRS that can help protect your taxpayer rights. We can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for our assistance, which is always free, we will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 1-877-777-4778.

Tax Information

The IRS provides the following sources for forms, publications, and additional information.

- **Tax Questions:** 1-800-829-1040 (1-800-829-4059 for TTY/TDD)
- **Forms and Publications:** 1-800-829-3676 (1-800-829-4059 for TTY/TDD)
- **Internet:** www.irs.gov
- **Small Business Ombudsman:** A small business entity can participate in the regulatory process and comment on enforcement actions of the IRS by calling 1-888-REG-FAIR.
- **Treasury Inspector General for Tax Administration:** You can confidentially report misconduct, waste, fraud, or abuse by an IRS employee by calling 1-800-366-4484 (1-800-877-8339 for TTY/TDD). You can remain anonymous.



Department of the Treasury
Internal Revenue Service

Notice 609

(Rev. October 2013)

Privacy Act Notice

The Privacy Act of 1974 says that when we ask you for information about yourself, we must first tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if you do not provide it and whether or not you must respond under the law.

This notice applies to tax returns and any papers filed with them. It also applies to any questions we need to ask you so we can complete, correct, or process your return; figure your tax; and collect tax, interest, or penalties. We ask for information to carry out the U.S. tax laws. We need the information to figure and collect the right amount of tax.

Our legal right to ask for information is found in Internal Revenue Code sections 6001, 6011, and 6012 and their regulations. They say that you must file a return or statement with us for any tax you are liable for. Your response is mandatory under these sections. Sections 7601–7613 authorize us to examine books and records and ask questions to obtain information we need. Section 6109 and its regulations say that you must provide your identification number on what you file. Paid tax return preparers and electronic return originators are also required to provide their identifying numbers.

We may give the information to the Department of Justice to enforce the federal civil and criminal tax laws, and to other federal agencies as provided by law. We may also give it to cities, states, the District of Columbia, and to U.S. commonwealths or possessions to carry out their tax laws. We may give it to certain foreign governments under tax treaties they have with the United States. We may also disclose this

information to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

If you do not file a return, the law says that you may be subject to penalties and interest, and in certain cases, criminal prosecution. If you do not provide required information, or provide false or fraudulent information, the law says that we may have to disallow the exemptions, exclusions, credits, deductions, or adjustments shown on your return. This could make your tax higher or delay any refund. You may also be subject to additional interest, penalties, or criminal prosecution.

Please keep this notice with your records. You may want to refer to it if we ask you for other information. If you have questions about the rules for filing and giving information, please visit our website at [IRS.gov](https://www.irs.gov), or call or visit any Internal Revenue Service office.



Statement of Administrative and Constitutional Rights

Statement of Administrative and Constitutional Rights

The First Amendment of the Constitution provides that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." The first clause is referred to as the Establishment Clause; the second is the Free Exercise Clause. The Establishment Clause prohibits government sponsorship of religion. Central to this prohibition are the concepts of government neutrality and the separation between church and state. The Supreme Court has held that the Free Exercise Clause of the First Amendment is an absolute prohibition against the regulation of religious beliefs. The First Amendment provides substantial protection for lawful conduct grounded on religious beliefs. However, the government may limit religiously motivated conduct when the limitation is essential to accomplish an overriding governmental interest. Section 7611 of the Internal Revenue Code (IRC) provides the following protections to organizations claiming to be churches or conventions or associations of churches:

1. The IRS may begin a church tax inquiry only if an appropriate high-level Treasury official reasonably believes, based on written facts and circumstances, that an organization claiming to be a church or convention or association of churches:
 - May not qualify for exemption,
 - May be carrying on an unrelated trade or business (within the meaning of IRC Section 513),
 - May otherwise be engaged in taxable activities, or
 - May have entered into an IRC Section 4958 excess benefit transaction with a disqualified person.
2. If the IRS begins a tax inquiry, it is required to provide the church written notice at the beginning of the inquiry. The Notice of Church Tax Inquiry must contain all of the following:
 - An explanation of the concerns that gave rise to the inquiry
 - The general subject matter of the inquiry
 - An explanation of the IRC provisions that authorize the inquiry
 - A general explanation of applicable administrative and constitutional provisions with respect to the inquiry
3. If the IRS wants to examine a church's records or religious activities, the Secretary of the Treasury, or his or her delegate, must personally approve the examination and must provide an additional written notice (Notice of Church Examination) to the church at least 15 calendar days before the examination. At the same time the IRS gives notice to the church, the IRS must notify IRS Counsel of the proposed examination. IRS Counsel is then allowed 15 days to file a non-binding advisory opinion about the examination.

Statement of Administrative and Constitutional Rights

The Notice of Church Examination must include all of the following:

- A copy of the Notice of Church Tax Inquiry previously provided
- A description of the church records and activities which the IRS wants to examine
- A copy of all documents collected or prepared by the IRS for use in the examination that are required to be disclosed under the Freedom of Information Act (5 U.S.C. 552) as supplemented by IRC Section 6103
- An offer of a conference with the IRS, prior to the examination, to discuss the concerns which gave rise to the inquiry and the general subject matter of the inquiry

The IRS may send the Notice of Church Examination to the church no less than 15 days after the Notice of Church Tax Inquiry. However, the IRS must generally mail the Notice of Church Examination, within 90 days after the Notice of Church Tax Inquiry or the IRS is required to end the inquiry without change to the church's tax status.

4. If the IRS fails to substantially comply with the above requirements, it may result in a stay of summons enforcement proceedings to gain access to church records until the IRS satisfies the requirements.
5. The IRS generally must complete any church tax inquiry or examination no later than two years after the date on which it mailed the Notice of Church Examination to the church. The two-year period may be extended by mutual agreement between the church and the IRS.

The church tax inquiry or examination will also be suspended during certain judicial proceedings and during any period more than 20 days but not more than six months, during which a church or its agents fail to comply with any reasonable IRS request for church records or other information. However, in the case of a church tax inquiry in which there is no Notice of Church Examination, the IRS must generally complete the inquiry within 90 days from the date it mailed the Notice of Church Tax Inquiry to the church.

6. The IRS is limited initially to an examination of church records relevant to the church's tax-exempt status for the three most recently completed tax years preceding the date of the Notice of Church Examination.

If the church is not exempt for any of those three years, the IRS may examine relevant records for the six completed tax years immediately preceding the Notice of Church Examination. The IRS may examine church records for a year earlier than the third or sixth completed taxable years if material to a determination of tax-exempt status during the three or six-year period.

Statement of Administrative and Constitutional Rights

For examinations relating to unrelated business taxable income, when no return is filed, the IRS may assess tax for the six most recently completed taxable years preceding the date of the Notice of Church Examination. The IRS may examine church records for a year earlier than the sixth year if material to a determination of unrelated business income tax liability during the six-year period.

For examinations involving issues other than determination of exempt status or unrelated business income tax liability, there is no limit on the taxable periods the IRS may examine if the church has not filed a tax return. If a church has filed a tax return, the normal rules for determining tax liability or assessing tax apply.

7. IRS Counsel must approve, in writing, any of the following:
 - An adverse determination concerning the tax-exempt status of an organization claiming to be a church
 - An adverse determination concerning the right of an organization claiming to be a church to receive tax deductible contributions
 - The issuance of a notice of tax deficiency to a church or disqualified person subject to IRC Section 4958 tax following a church tax examination
8. An organization claiming to be a church is entitled to bring a declaratory judgment action under IRC Section 7428 once the IRS issues a revenue agent's final report revoking or denying the church's tax-exempt status.
9. The Secretary of the Treasury, or his or her delegate, must approve an inquiry or examination begun within five years from the date of the Notice of Church Examination (or if no Notice of Church Examination is sent, a Notice of Church Tax Inquiry). This approval is not required if either of the following apply:
 - The second examination does not involve the same or similar issues as the preceding inquiry or examination
 - The first inquiry or examination resulted in a change to the organization's exempt status, an assessment of unrelated business income tax or other tax, or a recommendation for a substantive change in the church's operations, including accounting practices

EXHIBIT B



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
1111 Constitution Avenue, NW
TE/GE, SE:T, NCA-660
Washington, DC 20224

New Way Christian Fellowship Inc.
[Redacted]

Date: 6/14/2024

Taxpayer ID number:
[Redacted]

Form:

990 Return

Tax periods ended:

202212

Person to contact:

Name: Kristopher A Raper

ID number: 1002841529

Telephone: 214-413-5249

Fax: 855-780-9036

Manager's contact information:

Name: Mary Lee Morris

ID number: 1000120353

Telephone: 816-966-2371

Response due date:

7/5/2024

Certified Mail - Return Receipt Requested [Certified Mail Label]

Dear New Way Christian Fellowship Inc.:

Why we're sending you this letter

We have some questions about your tax-exempt status as a church under Internal Revenue Code (IRC) Section 501(a) and/or your liability for tax.

Our concerns are based on information we are in possession of indicating that you may have conducted political campaign intervention activities which are prohibited under IRC Section 501(c)(3).

We can conduct inquiries and examinations to determine the accuracy of any tax return, create a return when a taxpayer doesn't file one, and determine the tax liability of any person or organization (IRC Section 7602). However, IRC Section 7611 imposes restrictions on us when conducting tax inquiries and examinations of churches and conventions or associations of churches. IRC Section 7611 protects the rights of churches and provides a framework for us to resolve questions about their tax liability and tax-exempt status and to enforce the internal revenue laws.

As Commissioner, Tax Exempt and Government Entities, I have a reasonable belief that you may not be tax-exempt as a church under IRC Section 501(a) or that you may be liable for tax. I'm approving this church tax inquiry as described in IRC Section 7611(a).

What you need to do

Respond to the enclosed Church Tax Inquiry Questions by the response due date shown above. Answer each question completely. If your responses resolve our concerns, we'll close our inquiry.

- Upload your response using secure messaging: IRS secure messaging provides a safe means for exchanging information with IRS online. Secure messaging information is available at [IRS.gov/TEGEconnect](https://www.irs.gov/TEGEconnect). Enclosed is Publication 5295, Secure Messaging for Tax Exempt and Government Entities, which provides additional information about secure messaging. Scan the QR code below for information.
- Fax your response to the fax number at the top of this letter using either a fax machine or an online fax service. Protect yourself when sending digital data by understanding the fax service's privacy and security policies.



Send your response using one of the following methods:

- Mail your response to:

Attention: Kristopher A Raper, Internal Revenue Agent
Internal Revenue Service
Mail Stop MC 4957 DAL
1100 Commerce Street
Dallas, TX 75242

What will happen if you don't respond or send an incomplete response

If we don't hear from you by the response due date shown above or if we receive an incomplete response, we may issue Letter 5309, Notice of Church Examination, and begin examining your records or religious activities.

Taxpayer rights and sources for assistance

The enclosed Publication 5328, Statement of Administrative and Constitutional Rights, explains your administrative and constitutional rights during a tax inquiry and examination. You're entitled to a conference with us to discuss our concerns before we begin an examination. If we send you a Notice of Church Examination, we'll offer you the opportunity for a conference.

The Internal Revenue Code (IRC) gives taxpayers specific rights. The Taxpayer Bill of Rights groups these into 10 fundamental rights. See IRC Section 7803(a)(3). IRS employees are responsible for being familiar with and following these rights. For additional information about your taxpayer rights, please see the enclosed Publication 1, Your Rights as a Taxpayer, and Notice 609, Privacy Act Notice, or visit [IRS.gov/taxpayer-bill-of-rights](https://www.irs.gov/taxpayer-bill-of-rights).

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that helps taxpayers and protects taxpayers' rights. TAS can offer you help if your tax problem is causing a financial difficulty, you've tried but been unable to resolve your issue with the IRS, or you believe an IRS system, process, or procedure isn't working as it should. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. To learn more, visit taxpayeradvocate.irs.gov or call 877-777-4778.

Tax professionals who are independent from the IRS may be able to help you.

State bar associations, state or local societies of accountants or enrolled agents, or other nonprofit tax professional organizations may also be able to provide referrals.

If you submitted a Form 2848, Power of Attorney and Declaration of Representative, or Form 8821, Tax Information Authorization, and asked us to send your authorized representative or appointee copies of written communications, we'll send a copy of this letter to them.

For more information, see the enclosed Publication 1, Your Rights as a Taxpayer and Notice 609, Privacy Act Notice.

If you have questions, you can call the person shown above.

Sincerely,
Edward T.
Killen

Digitally signed by
Edward T. Killen
Date: 2024.06.09
17:49:29 -04'00'

Edward T. Killen
Commissioner, Tax Exempt and Government Entities

Enclosures:
Church Tax Inquiry Questions
Publication 5328
Publication 5295
Publication 1
Notice 609
Revenue Ruling 2007-41

New Way Christian Fellowship Inc.

Questions

We have a reasonable belief that you may have participated in political campaign intervention activities which are prohibited under Internal Revenue Code (IRC) Section 501(c)(3). Our concerns are based on information we possess indicating that New Way Christian Fellowship Inc. may have provided support to one or more candidates in a political campaign. Specifically, that you allowed Jill Woolbright, a candidate in a local school board election, to address your congregation during a Church service.

We have attached a copy of Revenue Ruling 2007-41 to this questionnaire for your convenience. The Revenue Ruling outlines the prohibition against political campaign intervention for organizations which are exempt from taxation under IRC Section 501(c)(3).

Please answer the following questions:

1. Does the video located at https://www.youtube.com/watch?v=E9F_vPlvvDo accurately depict Jill Woolbright speaking at an official church function of New Way Christian Fellowship Inc. in 2022?
 - a. If yes, how many people were in attendance and in what capacity were they there (e.g., church congregant)?
 - b. Also, the referenced video appears to have been published on YouTube.com by a local news organization. In 2022, did you publish or stream your own recording of Jill Woolbright's speech?
 - c. What was the purpose of allowing Jill Woolbright to speak at an official church function of New Way Christian Fellowship Inc.?
2. The video referenced in question 1.a. appears to depict Jill Woolbright giving a speech discussing her candidacy for the Flagler County School Board in 2022 at an official church function of New Way Christian Fellowship Inc. The video appears to further depict New Way Christian Fellowship Inc.'s pastor, Richard Summerlin, endorsing Jill Woolbright's candidacy for the Flagler County School Board at an official church function. Organizations exempt under 501(c)(3) are prohibited from engaging in political campaign intervention.
 - a. If you believe what is depicted in the video does not constitute prohibited political campaign intervention, please explain why.

3. In 2022, if you permitted a candidate for any public office to speak at any event you organized or otherwise sponsored, did you provide an equal opportunity to all candidates to speak at the event?
 - a. Allowing one candidate for office to speak at an event, without providing all candidates with the same opportunity, may result in violation of the prohibition against political campaign intervention outlined in IRC Section 501(c)(3). If you did not provide an equal opportunity to all candidates, please explain why you believe you have not engaged in prohibited political campaign intervention.
4. In 2022, were you aware that by violating the prohibition on political activities outlined in IRC Section 501(c)(3) (without making a correction), that your tax-exempt status could be revoked or that you could be subject to excise taxes?
5. Have you participated in any political campaign intervention activities in 2022 that you have not mentioned in response to the above questions?
6. In 2022, did you have any measures in place designed to prevent your organization from violating the prohibition on political campaign intervention under IRC Section 501(c)(3)?
 - a. If yes, please explain.

EXHIBIT C



Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

CHRISTIANS ENGAGED
[REDACTED]

Date: 05/18/2021

Employer ID number:
[REDACTED]

Contact person/ID number:

Roger Vance/0203391

Contact telephone number:

513-975-6666

Contact fax number:

855-789-2984

Legend:

B= July 22, 2019

C= Texas

D= Republican

F= The Texas Eagle Forum

G= Promise Keepers

H= Collin County

J= Collin County Republican

K = Collin County Victory Efforts

M = Word of God

UIL:

501.03-00

Dear Applicant:

We considered your application for recognition of exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a). We determined that you don't qualify for exemption under IRC Section 501(c)(3). This letter explains the reasons for our conclusion. Please keep it for your records.

Issues

Do you qualify for exemption under IRC Section 501(c)(3)? No, for the reasons stated below.

Facts

You were incorporated on B in the state of C. You are formed exclusively for charitable, religious, educational, or scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3), or the corresponding section of any future federal tax code.

Your founder and President is a motivational public speaker, former D Congressional Candidate, political consultant and Preacher of the Gospel. Your Vice President is a motivational public speaker, former President of F, intercessor, former Prayer Coordinator for G and a homeschool mom. Your Secretary you describe as a conservative millennial thought leader with a marketing and political consulting background. He now serves as the Executive Director for the K, where he manages the J Party's field teams in H as well as the grassroots get-out-the-vote efforts for H.

Your mission statement indicates that you exist to awaken, motivate, and empower ordinary believers in Jesus Christ to:

- Pray for the nation regularly
- Vote in every election to impact the culture
- Engage hearts in some form of political education or activism for the future of the nation
- Strive to educate Christians on the importance of prayer, voting and engagement in a non-partisan manner.

You explained that you hold weekly prayer meetings to pray for leaders of your state and nation. Churches are given program outlines for the prayer meetings. Statewide and area prayer gatherings are also conducted. You partner with other organizations to have strategic prayer gatherings for the state, nation, and elected officials.

In addition, you educate individuals through your website, social media, video, and live in person teachings in churches. Your goal is to provide a place of connection and educational tools for Christians to engage in political activism. Your website includes educational materials and blogs. Everywhere you go, you will have voter registrars and you will be registering people to vote on the spot.

You also educate believers on national issues that are central to their belief in the Bible as the inerrant M. You educate Christians in areas where they can be instrumental as in areas of the sanctity of life, the definition of marriage, biblical justice, laws vs. lawlessness, freedom of speech, religious liberty, government and business ethics, human trafficking, fiscal responsibility in government budgeting, defense, borders and immigration, U.S. and Israel relations.

To further your mission, you conduct educational activities including a month-long political activism course. The thrust of the course is to create onramps of practical education and mentorships for people to engage in political activism with a basis in a biblical/Christian value system. Topics include instructing individuals on becoming a citizen lobbyist, working with elected officials and candidates, discerning between the lesser of two evils, keeping the Christian soul right when working on politics, practical steps and pitfalls in political activism, how to work with an interest group focused on an area that you are interested in including the sanctity of life and fiscal responsibility, how to use mentoring to encourage Christians to engage in political activism. You will establish key leadership positions in each Congressional district across the state, so ordinary Christians can learn through action.

You educate individuals on how to choose between imperfect candidates as well as instruct individuals that parties matter. They should look at the party they represent and the core beliefs and values of that party. They should look at what the candidate says about the issues and see if their beliefs align with the Bible. Individuals should know the Bible, vote the Bible and vote on values.

Your president has several blogs on your website. A blog describing how to choose between candidates lists considerations that can be used to help make a decision when voting. For example, concerning the topic of partisan political races the blog indicates that party platforms should be looked at to see which candidate is most aligned with Christian/biblical values. The blogs list some of the most important Christian and biblical values as the sanctity of life, biblical marriage, and government and debt.

Initially, you had references to candidates that aligned with the Christian/biblical value system and had created voter guides that reflected the candidates values. You have since removed such references.

You are funded by donations. Your expenses are for salaries, professional fees, website, social media, video educational marketing, software and festival expenses.

You indicated that you do not engage in any substantial political activity and you are not advocating for specific political parties, candidates, or legislation.

Law

IRC Section 501(c)(3) provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable or educational purposes, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided in Section 501(h), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Treas. Reg. Section 1.501(c)(3)-1(c)(1) provides that an organization will be regarded as “operated exclusively” for one or more exempt purposes only if it engages primarily in activities that accomplish one or more exempt purposes specified in IRC Section 501(c)(3).

Treasury Regulation Section 1.501(c)(3)-1(c)(3)(i) states that an organization is not operated exclusively for one or more exempt purposes if it is an “action” organization.

Treas. Reg. Section 1.501(c)(3)-1(c)(3)(iii) of the regulations defines an “action” organization as an organization that participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office. The term “candidate for public office” is defined as an individual who offers himself, or is proposed by others, as a contestant for an elective public office, whether such office be national, State, or local. The regulations further provide that activities that constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the publication or distribution of written statements or the making of oral statements on behalf of or in opposition to such a candidate.

Rev. Rul. 2007-41 2007-25 I.R.B., provides 21 examples illustrating the application of facts and circumstances to determine whether a 501(c)(3) organization has participated in a political campaign intervention activity. Situation 16 describes an organization in which the executive director presented a preferred position on a prominent issue that distinguishes candidates before an election and encourages individuals to go to the polls and cast their vote. This situation is political campaign intervention. Situation 19 describes an organization that maintains a web site and posts an unbiased, nonpartisan voter guide that is prepared consistent with the principles discussed in Rev. Rul. 78-248. This situation is not political campaign intervention.

In American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989), the court held that an organization that operated a school to train individuals for careers as political campaign professionals, but that could not establish that it operated on a nonpartisan basis, did not exclusively serve purposes described in IRC 501(c)(3) because it also served private interests more than incidentally. The court found that the organization was created

and funded by persons affiliated with a particular political party and that most of the organization's graduates worked in campaigns for the party's candidates. Consequently, the court concluded that the organization conducted its educational activities with the objective of benefiting the party's candidates and entities. Although the candidates and entities benefited were not organization "insiders," the court stated that the conferral of benefits on disinterested persons who are not members of a charitable class may cause an organization to serve a private interest within the meaning of Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii). The court concluded by stating that even if the political party's candidates and entities did "comprise a charitable class, [the organization] would bear the burden of proving that its activities benefited members of the class in a non-select manner."

Application of law

You are not as described in IRC Section 501(c)(3) because you are not operated exclusively for religious and educational purposes. Specifically, you are engaged in prohibited political campaign invention. You are also operated for substantial nonexempt purposes in contravention to Treas. Reg. Section 1.501(c)(3)-1(c)(1).

You are not described in Treas. Reg. Section 1.501(c)(3)-1(c)(3)(i) in that you spend a substantial amount of time and resources devoted to activities that are typical of an action organization. Treas. Reg. Section 1.501(c)(3)-1(c)(3)(iii) further defines an "action" organization as one that plans to participate and intervene in political campaigns on behalf of or in opposition to candidates for public office. You instruct individuals on issues that are prominent in political campaigns and instruct them in what the Bible says about the issue and how they should vote. These issues include the sanctity of life, the definition of marriage, and biblical justice. These issues generally distinguish candidates and are associated with political party platforms. These facts preclude you from exemption under IRC Section 501(c)(3).

You are similar to Situation 16 in Revenue Ruling 2007-41. Certain aspects are weighed in determining campaign intervention as evidenced within the ruling. While you educate voters on what the bible says about issues, your educational activities are not neutral. The topics typically are affiliated with distinct candidates and specific political party platforms.

You are not similar to Situation 19 in Revenue Ruling 2007-41. Information you present and on your website is not neutral. You instruct individuals on how Christians should use the Bible and vote the Bible.

You are like the organization described in American Campaign Academy, because you are serving the private interests of the D party more than incidentally in contravention to Treas. Reg. Section 1.501(c)(3)-1(d)(1)(ii) as well as serving a substantial nonexempt private purpose. For example, you educate believers on national issues that are central to their belief in the Bible as the inerrant Word of God. Specifically, you educate Christians on what the bible says in areas where they can be instrumental including the areas of sanctity of life, the definition of marriage, biblical justice, freedom of speech, defense, and borders and immigration, U.S. and Israel relations. The bible teachings are typically affiliated with the D party and candidates. This disqualifies you from exemption under IRC Section 501(c)(3).

Conclusion

You do not qualify as an organization described in IRC Section 501(c)(3). You engage in prohibited political campaign intervention. You are also not operated exclusively for one or more exempt purposes within the meaning of Section 501(c)(3), because you operate for a substantial non-exempt private purpose and for the private interests of the D party.

If you agree

If you agree with our proposed adverse determination, you don't need to do anything. If we don't hear from you within 30 days, we'll issue a final adverse determination letter. That letter will provide information on your income tax filing requirements.

If you don't agree

You have a right to protest if you don't agree with our proposed adverse determination. To do so, send us a protest within 30 days of the date of this letter. You must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A statement of the facts, law, and arguments supporting your position
- A statement indicating whether you are requesting an Appeals Office conference
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization or your authorized representative
- The following declaration:

For an officer, director, trustee, or other official who is authorized to sign for the organization:

Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and to the best of my knowledge and belief, the request or the modification contains all relevant facts relating to the request, and such facts are true, correct, and complete.

Your representative (attorney, certified public accountant, or other individual enrolled to practice before the IRS) must file a Form 2848, Power of Attorney and Declaration of Representative, with us if they haven't already done so. You can find more information about representation in Publication 947, Practice Before the IRS and Power of Attorney.

We'll review your protest statement and decide if you gave us a basis to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't given us a basis for reconsideration, we'll send your case to the Appeals Office and notify you. You can find more information in Publication 892, How to Appeal an IRS Decision on Tax-Exempt Status.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court later because the law requires that you use the IRC administrative process first (IRC Section 7428(b)(2)).

Where to send your protest

Send your protest, Form 2848, if applicable, and any supporting documents to the applicable address:

6

U.S. mail:

Internal Revenue Service
EO Determinations Quality Assurance
Mail Stop 6403
P.O. Box 2508
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Mail Stop 6403
Cincinnati, OH 45202

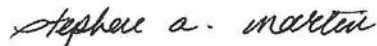
You can also fax your protest and supporting documents to the fax number listed at the top of this letter. If you fax your statement, please contact the person listed at the top of this letter to confirm that they received it.

You can get the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676). If you have questions, you can contact the person listed at the top of this letter.

Contacting the Taxpayer Advocate Service

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or if you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

Sincerely,



Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements