

December 14, 2018

Dear Representative:

The 109 undersigned organizations write to strongly oppose the inclusion of *any* language in H.R. 88, the tax package that may be debated soon by the House, that would repeal or weaken the longstanding federal law that is sometimes referred to as the “Johnson Amendment.” In particular, we oppose Section 407 of the proposed Retirement, Savings, and Other Tax Relief Act of 2018 and urge its removal from the legislation. This provision would gut the Johnson Amendment, transforming charitable organizations into tax-exempt partisan campaign organizations.

The Johnson Amendment protects the integrity and independence of tax-exempt organizations, including charitable nonprofits, houses of worship, and foundations, by ensuring they do not endorse or oppose candidates for public office. Americans overwhelmingly support the existing law because they do not want our charities and houses of worship to be torn apart by partisan campaign politics.

Section 407, however, would allow all 501(c)(3) organizations to make statements endorsing or opposing candidates for public office so long as those statements are made in the “ordinary course” of carrying out their tax-exempt purpose and do not incur more than “de minimis incremental expenses.” Although section 407 might appear to be a narrow exemption to current law, it is actually so broad that it would make the Johnson Amendment nearly meaningless.

Under this provision, any charitable nonprofit organization could endorse a candidate in *all* the activities it carries out and in *all* the materials it shares, as long as there is ostensibly another purpose for engaging in those activities or creating those materials. An organization could meet this test even if endorsement activity permeates throughout and even dominates the tax-exempt organization’s work.

This provision would allow donors to fund partisan campaign activities *and* receive a charitable tax deduction, something that is not available to donors to candidate committees, PACs, or even social welfare organizations. The Joint Committee on Taxation’s analysis of this proposal projects that over 10 years donors would use this tax deduction to knowingly divert \$7.7 billion from the public treasury to newly politicized “charitable” organizations that endorse or oppose political candidates.

The provision is also problematic because it includes a vague and undefined test that is subject to IRS discretion. To determine whether tax-exempt organizations are complying with the law, the IRS would have to determine whether an endorsement occurred during the “ordinary course” of carrying out their tax-exempt purpose and whether it amounted to “de minimis incremental expenses.” This is particularly troubling when it comes to houses of worship. To determine whether a house of worship meets this test, the IRS will have to

investigate its books, activities, sermons, and correspondence. By inviting that type of scrutiny of internal documents and judgments about religion, this bill actually threatens, rather than upholds, the autonomy and independence of houses of worship.

Under the current law, which has been in place for more than six decades, charitable nonprofits, houses of worship and foundations have maintained robust free speech rights and can speak out on any political and social issue that they see as important. They currently can engage in public debate on any issue, and even, with a few boundaries, lobby on specific legislation. Moreover, in the election arena, they can – on a nonpartisan basis – host candidate forums, hold voter registration drives, encourage people to vote, help transport people to the polls, and invite candidates to speak. They simply cannot endorse or oppose candidates and maintain their special tax-exempt status.

The vast majority of charitable nonprofits, houses of worship, and foundations support keeping the Johnson Amendment as is because it protects all of us from politicians’ and donors’ demands for partisan endorsements and from the diversion of charitable assets to campaign coffers. Indeed, 106 religious and denominational organizations,¹ more than 5,800 charitable nonprofit organizations,² more than 4,500 faith leaders,³ and state charities officials⁴ have all written to Congress to urge it to protect the Johnson Amendment.

The Johnson Amendment serves as a valuable safeguard that protects our tax-exempt organizations and our political process. Therefore, we firmly urge you to oppose any language in H.R. 88 that would weaken the current law.

Sincerely,

ACCSES

African American Ministers In Action

Alliance of Baptists

American Association of University Women (AAUW)

American Atheists

American Baptist Churches, USA

American Baptist Home Mission Societies

American Conference of Cantors

American Federation of State, County and Municipal Employees (AFSCME)

American Humanist Association

American Jewish Committee

Americans for the Arts

Americans for the Arts Action Fund

Americans United for Separation of Church and State

Anti-Defamation League

¹ [Letter to Congress from 106 Religious and Denominational Organizations](#) (last updated Nov. 13, 2017).

² [Letter to Congress from Organizations in Support of Nonpartisanship](#) (last updated Oct. 1, 2018).

³ [Letter to Congress from Faith Voices in Support of Keeping Houses of Worship Nonpartisan](#) (last updated June 7, 2018)

⁴ [Letter to Congress from the National Association of State Charities Officials](#) (August 23, 2017).

Association of Welcoming and Affirming Baptists
B'nai B'rith International
Baptist Center for Ethics
Baptist Joint Committee for Religious Liberty
Baptist Women in Ministry
Bend the Arc: Jewish Action
BoardSource
BPFNA ~ Bautistas por la Paz
Bright Lines Project
Campaign for Accountability
Campaign Legal Center
Catholics for Choice
Center for American Progress
Center for Inquiry
Center for Media and Democracy
Central Conference of American Rabbis
Christian Church (Disciples of Christ)
Citizens for Responsibility and Ethics in Washington
Common Cause
Congregation of Our Lady of the Good Shepherd, US Provinces
Cooperative Baptist Fellowship
Council on Foundations
Democracy 21
DignityUSA
Disciples Center for Public Witness
Disciples Justice Action Network
End Citizens United
Equal Partners in Faith
Evangelical Lutheran Church in America
Faith in Public Life
Franciscan Action Network
Freedom From Religion Foundation
Friends Committee on National Legislation
Girl Scouts of the USA
Girls Inc.
Goodwill Industries International, Inc.
Habitat for Humanity International
Hadassah, The Women's Zionist Organization of America, Inc.
Hispanic Federation
Impact Fund
Independent Sector
Interfaith Alliance
International Council of Community Churches
International Society for Krishna Consciousness (ISKCON)
Jewish Council for Public Affairs
Land Trust Alliance
League of American Orchestras

League of Women Voters of the United States
LUCHA Ministries, Inc.
Meals on Wheels America
Medical Students for Choice
Men of Reform Judaism
Missionary Oblates USP
MOVI, Money Out Voters In
Muslim Public Affairs Council
Muslims for Progressive Value
National Advocacy Center of the Sisters of the Good Shepherd
National Coalition of American Nuns
National Council of Churches
National Council of Jewish Women
National Council of Nonprofits
National LGBTQ Task Force Action Fund
National Women's Law Center
NETWORK Lobby for Catholic Social Justice
New Ways Ministry
Oxfam America
People For the American Way
Planned Parenthood Federation of America
Progressive National Baptist Convention
Public Citizen
Rabbinical Assembly
Reconstructing Judaism
Reconstructionist Rabbinical Association
Religious Institute
Secular Coalition for America
T'ruah: The Rabbinic Call for Human Rights
The Arc of the United States
The Church Network
The Episcopal Church Office of Government Relations
The Jewish Federations of North America
The Patriotic Millionaires
The Prentice Foundation
The United Methodist Church - General Board of Church and Society
U.S. PIRG
Union for Reform Judaism
Unitarian Universalist Association
United Church of Christ, Justice and Witness Ministries
United Philanthropy Forum
United To Amend
Voices for Progress
Women of Reform Judaism
Women's Alliance for Theology, Ethics, and Ritual (WATER)
Women's League for Conservative Judaism
YWCA USA