

IRS says churches can now endorse political candidates

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A local resident leaves a church after voting in an election in Cumming, Iowa. **Charlie Neibergall/AP** hide caption

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In a break with decades of tradition, the Internal Revenue Service says it will allow houses of worship to endorse candidates for political office without losing their tax-exempt status.

The surprise announcement came in a [court document](#) filed on Monday.

Since 1954, a provision in the tax code called the Johnson Amendment says that churches and other nonprofit organizations could lose their tax-exempt status if they participate in, or intervene in "any political campaign on behalf of (or in opposition to) any candidate for public office."

The National Religious Broadcasters and several churches sued the IRS over the rule, arguing that it infringes on their First Amendment rights to the freedom of speech and the free exercise of religion.

The IRS rarely enforced the rule. During President Trump's first term, [he promised to](#) "get rid of and totally destroy the Johnson Amendment and allow our representatives of faith to speak freely and without fear of retribution."

In Monday's court filing, the IRS didn't go that far. But it did say that when a house of worship "in good faith speaks to its congregation, through its customary channels of communication on matters of faith in connection with religious services, concerning electoral politics viewed through the lens of religious faith" it neither participates nor intervenes in a political campaign.

Rather, the IRS compared religious institutions' endorsement of candidates to a "family discussion."

"Thus, communications from a house of worship to its congregation in connection with religious services through its usual channels of communication on matters of faith do not run afoul of the Johnson Amendment as properly interpreted."

IRS rule led to costly investigations, conservatives say

The IRS has rarely punished houses of worship for endorsements during religious services, though the agency has investigated churches over alleged Johnson Amendment violations. In April, Robert Jeffress, pastor of First Baptist Church in Dallas, [told RNS](#) that his church spent "hundreds of thousands of dollars" during an IRS investigation.

"The case was ultimately resolved in our favor," he said. Jeffress also said he'd been with Trump during a meeting where several pastors also spoke about being investigated over alleged Johnson Amendment violations. During his first term in office, Trump signed an executive order designed to give churches more leeway under IRS rules.

Still, only one church has ever lost its tax exemption over politics. In 1992, a church in New York took out ads opposing Bill Clinton, [leading to the loss](#) of its tax exemption.

The federal court filing is part of a proposed settlement of a [lawsuit filed](#) by the National Religious Broadcasters and a pair of Texas churches that sought to overturn the Johnson Amendment.

Those groups argued that some nonprofit newspapers and other publications have been allowed to endorse candidates without running afoul of the IRS, while IRS rules barred churches and other nonprofits from doing the same.

"Plaintiffs believe that nonprofit newspapers have a clear constitutional right to make such endorsements or statements," wrote lawyers for the plaintiffs in a complaint filed last August in the U.S. District Court of the Eastern District of Texas, Tyler Division. "Plaintiffs simply contend that they should also have the same freedom of speech."

The NRB declined to comment about the proposed settlement. A spokesperson said the group was waiting to see if the judge approves the settlement.

The proposed settlement would bar the IRS from requiring Sand Springs Church in Athens, Texas, and First Baptist Church in Waskom, Texas, from having to abide by the Johnson Amendment, both now and in the future. Both parties would pay their own legal bills. Neither side would be allowed to appeal.

The plaintiffs also asked the court to rule that the Johnson Amendment's ban on political speech by nonprofits is unconstitutional.

But according to Sam Brunson, a professor at Loyola University Chicago's law school and an expert on tax law, the IRS' legal agreement ultimately may not change much about how the Johnson Amendment already functions in practice.

"This doesn't really represent a change in the 70 years that the Johnson Amendment has been law," he said. "It's been enforced once against a church, and you see a lot of cases of churches trying to jump in and get their exemptions revoked so that they can challenge the constitutionality. And up until now, the IRS hasn't been willing to do that."

Even so, Brunson said the legal filing — while narrowly tailored to the plaintiffs in question — may give other religious groups confidence that public endorsements won't result in a challenge to their tax-exempt status.

Christian legal groups have long sought to overturn the Johnson Amendment. For years Alliance Defending Freedom, one such group, organized "pulpit freedom" Sundays designed to have preachers violate IRS rules by endorsing candidates from the pulpit. But those efforts were futile and the ADF no longer runs Pulpit Sunday initiatives.

Americans United for Separation of Church and State urged the judge in the case to reject the settlement.

"Weakening this law would undermine houses of worship and nonprofits by transforming them into political action committees, flooding our elections with even more dark money," Americans United said in a statement.

Endorsements from the pulpit aren't popular

Americans — including religious Americans — generally take a dim view of political endorsements in the pulpit.

According to an analysis of 2023 polling provided to RNS by the Public Religion Research Institute, majorities of all major religious groups oppose allowing places of worship to endorse political candidates while retaining their tax-exempt status. That includes white evangelicals (62%) as well as Black Protestants (59%), white mainline or nonevangelical Protestants (77%), white Catholics (79%), Hispanic Catholics (78%), Hispanic Protestants (72%) and Jewish Americans (77%).

Researchers noted opposition to the idea among white evangelicals remains virtually unchanged since 2017, when they last polled on the topic.

A [2019 survey](#) by Pew Research found that 76% of Americans and 70% of Christians say clergy should not endorse candidates from the pulpit, though evangelicals (62%) and Black Protestants (55%) are less likely to disapprove. Nearly two-thirds of Americans wanted churches to stay out of politics.

This story was produced through a collaboration between NPR and Religion News Service.

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