

Congress of the United States

Washington, DC 20515

November 20, 2025

Acting Commissioner Scott Bessent
Internal Revenue Service
1111 Constitution Ave., NW
Washington, DC 20224

Dear Acting Commissioner Bessent,

The great Congressman John R. Lewis, an ordained Baptist Minister and hero of the Civil Rights Movement, issued a moral call to his colleagues on November 8, 2017:

“Fifteen years ago...Democrats and Republican came together to preserve the last remaining sanctuary that was free from partisan politics. In our heart of hearts, we understood that we had a moral responsibility to put the good of our nation before campaigns. My friends, we need that vision and unity again today.”¹

Congressman Lewis was defending the Johnson Amendment—a foundation stone in the nation’s wall of separation between church and state and a shield for tax-exempt organizations’ integrity—as the House Committee on Ways and Means considered an ultimately unsuccessful attempt to demolish it. In this same spirit, we are writing to express our serious concerns regarding the settlement that the Internal Revenue Service (IRS) has proposed in the matter of *National Religious Broadcasters Association et al v. Bessent*.

The Proposed Consent Decree asks the Court to exempt two religious organizations from obeying the law by reinterpreting the verbs “participate” and “intervene” and classifying communications from houses of worship to their congregations as compliant with the Johnson Amendment without any accompanying explanation for that classification. This reinterpretation is not permissible under the statute as enacted and sustained by Congress; presents serious constitutional concerns as a potential violation of the Equal Protection Clause; fails to disclose any fiscal effects of reinterpreting the law; and sidelines the principled and compelling opposition expressed by thousands of nonprofits, houses of worship and faith-based organizations that would be harmed by adopting this proposal.

¹ Markup of H.R.1, Tax Cuts and Jobs Act: House Committee on Ways and Means, 115th Cong. (2017). In his remarks, Congressman Lewis was referring to a vote of the whole House of Representatives that rejected a repeal of the Johnson Amendment on October 2, 2002 on a strong bipartisan basis.

Congress was in the process of modernizing the tax code in 1954 when then-Senator Lyndon Baines Johnson offered a provision clarifying reasonable boundaries between electoral politics and tax-exempt activities, including religious exercise. It was so noncontroversial at the time that Congress incorporated the Johnson Amendment without extended debate and Republican President Dwight D. Eisenhower signed it into law. Congress has considered and rejected multiple attempts to modify the Johnson Amendment because, as Congressman Lewis noted, Members have long understood the moral imperative of shielding nonprofit service organizations, including houses of worship, from electoral politics while protecting taxpayers from being compelled to subsidize political speech. Your Proposed Consent Decree is nothing more than a transparent end-run around Congress, which has consistently rejected attempts to change this 70-year-old law.

As explained in a letter sent to then-Commissioner Billy Long on July 18, 2025,² the Proposed Consent Decree seeks to exempt two specific organizations favored by the government out of the more than 1.5 million 501(c)(3) organizations in the United States from following the law.³ In exempting two religious entities in terms limited to religious activities, the IRS is creating an Equal Protection Clause violation which could spread as organizations seize upon this Proposed Consent Decree to sue for their own exemptions. The settlement's reasoning blows the door wide open for both secular nonprofits and all other religious organizations to petition the courts for their own free pass to engage in tax-exempt electoral speech. This settlement radically reinterprets the law and creates another opening for political actors to use charitable nonprofits to anonymously funnel unlimited money into elections.

The Proposed Consent Decree also fails to acknowledge the potential costs of implementing this ill-judged settlement. The Congressional Joint Committee on Taxation evaluated the Johnson Amendment repeal measure that Congressman Lewis opposed in 2017 and determined that such legislation would cost taxpayers \$2.1 billion over 10 years.⁴ While the ultimate cost of the Proposed Consent Decree would ultimately depend on the extent of the exemptions granted, we are concerned that there will be very real costs to taxpayers if more nonprofits are able to engage in electoral activity. Under current law, political donations are subject to federal and state taxes. If this Proposed Consent Decree takes effect, contributions could be redirected from taxable sources to the churches covered by the settlement to become newly tax-deductible, with more to follow if and when other religious organizations and

² Letter from members of the Congressional Freethought Caucus to Billy Long, Com'r, IRS (July 18, 2025), https://huffman.house.gov/imo/media/doc/congressional_freethought_caucus_letter_to_irs_opposing_motion_to_undermine_johnson_amendment.pdf.

³ Internal Revenue Service, SOI tax stats - Tax-exempt organizations and nonexempt charitable trusts - IRS Data Book Table 14, 2024. <https://www.irs.gov/statistics/soi-tax-stats-tax-exempt-organizations-and-nonexempt-charitable-trusts-irs-data-book-table-14>.

⁴ U.S. Joint Committee on Taxation, JCX-46-17. *Estimated Revenue Effects of H.R. 1, Fiscal Years 2018 – 2027 The "Tax Cuts And Jobs Act," Scheduled For Markup By The Committee On Ways And Means On November 6, 2017* (2017)

nonprofits seek the same allowance. The result would be reduced federal revenue.⁵ If you have prudently estimated the potential costs of this settlement and its aftermath, we urge you to publicize the results of your calculations.

We are also concerned that your Proposed Consent Decree would harm the many religious institutions and people of faith who oppose weakening the Johnson Amendment. During previous attempts to weaken the law, more than 4,600 faith leaders, 5,800 nonprofit organizations and 106 religious and denominational organizations expressed strong and principled opposition.⁶ Faith leaders across religious denominations united across their differences to affirm that “faith leaders are called to speak truth to power, and we cannot do so if we are merely cogs in partisan political machines.” If this decree weakening the Johnson Amendment shield goes into effect, houses of worship in which the clergy and congregation wish to remain apolitical could be pressured to engage in taxpayer-subsidized electoral politics by elected officials, candidates or donors. Such an outcome would be highly detrimental to religious freedom in America.

The First Amendment protects religious communities in two different ways—through the Establishment Clause, which prevents the government from imposing or endorsing one or more religions, and the Free Exercise Clause, which protects every person’s right to worship in whatever manner they choose. The IRS should reject the false tension that the religious Right has tried to create between these two principles. The Religious Free Exercise and Establishment Clauses are equally essential, and they stand best when they stand together. Neither has been violated by the Johnson Amendment as it has been interpreted since 1954, with equal applicability to all nonprofit organizations.

Congress has repeatedly chosen to maintain the Johnson Amendment in statute, and we reject the notion that the IRS can unilaterally reinterpret 70 years of this settled law. We urge you to withdraw your Proposed Consent Decree.

Very truly yours,

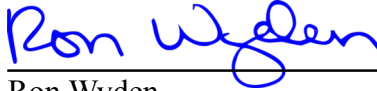
⁵Testimony of the Staff of the Joint Committee on Taxation Before the Markup of H.R.1, Tax Cuts and Jobs Act: House Committee on Ways and Means, 115th Cong, Nov. 6, 2017.

⁶ Letter from faith leaders to congressional representatives (June 7, 2018).

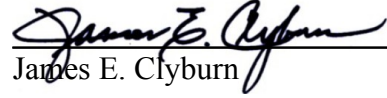
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Member of Congress



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United States Senator
Ranking Member, Committee
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James E. Clyburn



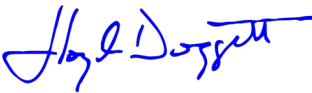
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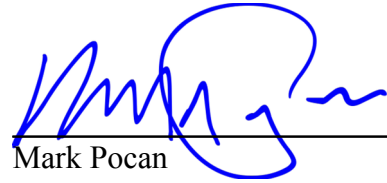
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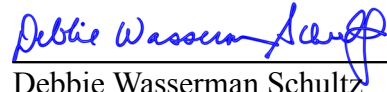
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