December 18, 2018

Dear Representative:

The 113 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 507 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 507, 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 507 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, more than 5,800 charitable nonprofit organizations, more than 4,500 faith leaders, and state charities officials 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 Federation of Teachers
American Humanist Association
American Jewish Committee
Americans for the Arts
Americans for the Arts Action Fund
Americans United for Separation of Church and State

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1 Letter to Congress from 106 Religious and Denominational Organizations (last updated Nov. 13, 2017).
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).
Anti-Defamation League  
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  
Dance/USA  
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 Employment Lawyers Association
National LGBTQ Task Force Action Fund
National Women's Law Center
NETWORK Lobby for Catholic Social Justice
New Ways Ministry
OPERA America
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'reuah: 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