Opinion
NCR Voices



The Internal Revenue Service building in Washington is seen April 11, 2025. (OSV News/Reuters/Jonathan Ernst)



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In a court filing this week, the Internal Revenue Service indicated that, under most circumstances, it would not revoke a church's tax-exempt status if it violated the Johnson Amendment, a 1954 law that prohibits nonprofit organizations like churches from endorsing political candidates for office.

The desire to revoke the Johnson Amendment has been something of a cause célèbre for conservative Christian evangelicals. In fact, the law was only enforced once, after a New York church took out full-page newspaper ads in 1992, opposing the candidacy of Bill Clinton.

The IRS court filing this week would not have precluded that action, stating, "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." Presumably, there is no church with an ecclesiology that considers a newspaper ad part of its religious service.

Americans United for Separation of Church and State, as is its wont, displayed high dudgeon at the court filing. "The Trump administration's radical reinterpretation of the Johnson Amendment is a brazen attack on church-state separation that threatens our democracy by favoring houses of worship over other nonprofits and inserting them into partisan politics," the organization stated in a press release. "It's President Trump and his Christian Nationalist allies' signature move: exploiting religion to boost their own political power."

Not for the first or last time, Americans United misunderstood the law. Our legal system frequently grants legal exemptions to houses of worship to which other nonprofits are not entitled.

For example, the 2012 U.S. Supreme Court decision in the *Hosanna-Tabor* case granted churches, but not other nonprofits, exemptions from certain employment law provisions embedded in the Americans with Disabilities Act. The ruling was understood to apply to other nondiscrimination laws, too. It applied only to those in a "ministerial" position, so an accountant might still be protected under nondiscrimination provisions, but clergy and teachers are not. The decision was also

unanimous.

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Ironically, the most consequential use of the Johnson Amendment occurred when it was turned upside down rhetorically by Ronald Reagan in 1980 during a speech in Dallas to make a point about aligning the GOP with evangelical Christians. Speaking at the National Affairs Briefing organized by the Rev. Billy Graham and hosted by the Rev. W.A. Criswell at Dallas' First Baptist Church, Reagan said: "I know that this is a nonpartisan gathering, and so I know that you can't endorse me, but I only brought that up because I want you to know that I endorse you and what you are doing." It was brilliant politics.

Reagan's talk did not run afoul of any constitutional provision to be sure. And it highlighted the "wink, wink, nod, nod" quality of a lot of church-state issues, at least at the margins. There are times when a pressing need — say, caring for an indigent family or a recently arrived refugee — requires people of goodwill in both church and state to fudge a federal policy or look past a technical breach of separationist regulations to get the humane result needed at that moment.

But Reagan's speech was tone-deaf to the danger to religion from entanglement with partisan politics. The audience was tone-deaf to that danger as well.

Certain religious denominations, and certain congregations within a particular denomination, lean one way or the other politically. Evangelical Christians tend to be politically conservative and Unitarians tend to be politically liberal. Certain Catholic parishes are known for being more liberal or conservative, too. A pastor with a particular congregation that leans one way or the other does not need to mention a candidate by name to get the message out. Some pastors are only too happy to insert themselves into politics.

The Catholic Church is more measured in its approach to politics. The Catholic Church has direct experience of governance by clerics: the papal states and the many prince-bishoprics of central Europe. It is a most unhappy history and resulted in a legacy of anti-clericalism.

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Here in the U.S., there are liberal Catholics and conservative Catholics. Most pastors draw attention in their sermons to the church's social ethics — protect human life and dignity, care for creation, defend religious liberty, promote the common good, etc. They are careful not to get too explicit about the partisan implications of the faith. Our Catholic tradition understands that its primary work of evangelization strikes at a level deeper than partisan politics and that it is the role of the laity to bring our teaching into the public square, exercising prudential judgment in doing so.

The U.S. bishops have not always followed their own tradition when drafting their quadrennial document on conscience and voting, "Forming Consciences for Faithful Citizenship." As I have argued repeatedly, for example here, when the bishops inserted a statement in their 2019 version of "Faithful Citizenship" that "the threat of abortion remains our preeminent priority," they were doing more than forming consciences. They were replacing them. It is the laity's decision what issues to prioritize.

The bishops' conference stance on the Johnson Amendment is truer to our tradition. Speaking about the IRS court filing, conference spokesperson Chieko Noguchi said: "The IRS was addressing a specific case, and it doesn't change how the Catholic Church engages in public debate. The Church seeks to help Catholics form their conscience in the Gospel so they might discern which candidates and policies would advance the common good. The Catholic Church maintains its stance of not endorsing or opposing political candidates."

Bottom line: The kerfuffle over the IRS court filing will be used by groups on both sides to perpetuate the culture wars and drive more donations to their organizations so that they can pay their staff. MSNBC and Fox will bring on the familiar talking heads to fan the flames. A lot of sound and fury.

Related: Pastors who endorse political candidates shouldn't lose tax-exempt status, IRS says in filing