

Commentary: House Republicans' proposed tax reform will lead to church regulation

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(RNS) — Partisan politics do not belong in church pulpits or in nonprofit offices. This isn't just common sense, but part of the tax code. The Johnson Amendment says that 501(c)(3) nonprofits, including churches, cannot endorse or oppose political candidates.

House Republicans have proposed a tax bill that seeks to change that. It would repeal the Johnson Amendment and, though the GOP doesn't realize this yet, will end in the government regulating churches.

The bill is yet another attempt by the Ryan-Trump alliance to do away with this important safeguard. President Trump, with the support of House Speaker Paul Ryan, R-Wis., has promised his evangelical supporters that he will "get rid of and totally destroy the Johnson Amendment." On the National Day of Prayer, May 4, Trump signed an executive order seeking to prevent its enforcement, an order the Freedom From Religion Foundation filed a lawsuit against the same day.

Initially, the House bill repealed the Johnson Amendment for churches alone. According to the Joint Committee on Taxation, this would have cost taxpayers \$2.1 billion over 10 years because some political donors would switch their donations to tax-exempt charities. Just before voting the bill out of the Ways and Means Committee — the final vote along party lines — it was expanded to include all 501(c)(3) nonprofits.

But this exacerbates the problem, costing taxpayers billions more and dragging nonprofits away from their charitable missions and into the undrained, partisan swamp. Every major nonprofit coalition wants the Johnson Amendment to remain in place: More than 4,500 nonprofits signed a letter to Congress asking that the rule be protected.

The statute is no threat to freedom of speech or freedom of religion. Tax exemption is a privilege, not a right. Churches are free to decline tax exemption in order to wade into the waters of partisan politics. But if they do, churches, like other political organizations, should not expect tax exemptions. The rule makes perfect sense. We want charitable donations to go toward charitable works, not mud-slinging and electioneering. Political contributions should not be tax-exempt, or laundered through tax-exempt organizations.

The havoc that would be wrought by repealing the Johnson Amendment would make Citizens United look like the golden age of American democracy. Permitting tax-exempt churches to engage in partisan politicking would throw untold millions — even billions is no exaggeration — of dark money into U.S. elections. Right now, all 501(c)(3) organizations except churches and church-related charities file annual tax returns, the detailed Form 990, with the IRS. Every penny donated and every penny spent is tracked. But churches file nothing. They are exempt. They are financial and informational black holes.

So if the Johnson Amendment is repealed, any megadonor could write the nearest megachurch a check of any size and take the tax write-off. The pastor gets the check, takes his cut — a tithe, so to speak — and spends the rest on politicking. Churches would become super-PACs. All in the name of religious freedom.

Even the allegedly limiting language in the tax reform bill, that bit about de minimis expenditures, calls down regulation. How will we know what is

a *de minimis* expense for a church unless we know the extent of its budget and income? And what is *de minimis* to a megapreacher such as Kenneth Copeland or Joel Osteen or Joyce Meyer?

Trump, Ryan and other opponents of the rule are shortsighted, especially if religious freedom is the true goal. Imagine for a moment that they get everything they want. Churches become unregulated, unaccountable, opaque super-PACs. Regular PACs start reorganizing as churches because their donors have suddenly found tax-deductible Jesus and fled.

This scenario is unsustainable if our democracy is to survive. At some point, the government will be forced to regulate churches: financial disclosures, donor disclosures (including even regular parishioners and tithe-givers), IRS filings, FEC filings — the regulatory list will be long and onerous. Churches will get money, power — and invasive government regulation to match.

There is no religious freedom issue now, with the Johnson Amendment in place. But repealing it will call down a wave of regulation on churches that will make the biblical plagues look like a flurry of love notes. Perhaps because they never expected to be in power, opponents of this sensible rule simply haven't thought through the consequences of repealing it; they haven't pondered what will happen when they catch this tiger by its tail.

A vote against the Johnson Amendment is a vote for church regulation. Surely that's not something the party that has proclaimed itself the champion of religious liberty intended. But that's what happens when a reality TV show host dictates tax policy as a way to thank his zealous supporters. The law governing churches' involvement in politics might change, but the law of unintended consequences will not.

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