

Churches tax exempt  
a matter of  
constitutional right  
religion essay



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The U. S. Supreme Court stated in *Lemon v. Kurtzman* in 1971 that non-taxation of churches is undergirded by “ more than 200 years of virtually universal practice imbedded in our colonial experience and continuing into the present.” Here is why: There is a distinction between constitutionally separate “ sovereigns.” For one sovereign entity to tax another leaves the taxed one subservient to that authority. This is true both in the symbolic statement of paying the tax and in the practical effect of supporting the sovereign party. So, in our constitutional structure, states may not tax each other, and they may not tax property of the federal government. The District of Columbia does not tax the property owned by foreign governments, and New York does not tax the property owned by the United Nations.

While the church is not subservient to the government, neither is the government subservient to the church. Although government can aid or support virtually all types of social or educational institutions which have a public purpose with the use of tax money, the Supreme Court stated in 1948 that “ no tax in any amount, large or small, can be levied to support any religious activities or institutions.” Thomas Jefferson coined the highly referenced “ wall of separation” between church and state (but not in the Constitution, as many people assume). The separation he referred to must be bilateral and reciprocal. Whatever the degree of separation required by the Constitution, it is surely this: the government may not make the church subservient by taxing its existence.

In *Walz v. Tax Commission*, the Supreme Court noted that the church’s “ uninterrupted freedom from taxation” has “ operated affirmatively to help guarantee the free exercise of all forms of religious belief.” The much

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misunderstood “ separation between church and state” is in truth designed to restrict the sovereignty of each over the other. That is, it is designed to achieve a position for each that is neither master nor servant of the other. Exemption from income taxation is essential for respect of the church as a separate sovereign entity. Otherwise the government has the power to encumber and even terminate churches if such taxes are not punctually paid or cannot be so paid in full. Indeed, as the high court noted many years ago, “ the power to tax involves the power to destroy.”

The fact that the Constitution mandates a tax exemption for churches is one of the best reasons why churches are not taxed.

#### Historically, Tax Exempt Churches Have Benefited American Society

Even before the IRS (Internal Revenue System) ever existed, churches were tax exempt. In fact, as the U. S. Supreme Court acknowledged in 1970 in the *Walz v. Tax Commission* case, exempting churches from taxation is an “ unbroken” history that “ covers our entire national existence and indeed predates it.” Because of this unbroken history, churches have been included and recognized as tax exempt in every income tax code passed by Congress since the very first attempt to pass an income tax code in 1894. In fact, the federal tax code recognizes this special exemption for churches because churches are the only organization not required to seek advance approval of tax exemption. They are considered automatically tax exempt simply because of their status as a church. This “ unbroken history” of tax exemption for churches that predates our national existence is not something that is lightly cast aside. And, as history demonstrates, churches

have thrived and have benefitted society in many ways as a result of the freedom that flows from tax exemption. It is a mythical caricature that most churches want to be tax exempt simply so they can unfairly hold on to more money than anyone else. This is a falsehood promoted by those who simply do not understand the facts.

Churches have been at the forefront of many of the beneficial social movements throughout American history. Historians agree that America owes its independence, in great degree, to churches and pastors who spoke freely and passionately from their pulpits in favor of independence. Pastors during the revolutionary time period became known as the “ Black Regiment” due to their black clerical robes and the fervor with which they supported independence.

Churches also led the fight to end child labor, promote women’s suffrage, and were instrumental in ending slavery. Let’s not forget pastors like Henry Ward Beecher who spoke with great influence against slavery from his pulpit at Plymouth Church in Brooklyn. And, of course, it was a pastor, the Rev. Martin Luther King, Jr., with the support of churches, who helped to end segregation. A concurring opinion handed down by the U. S. Court of Appeals for the Ninth Circuit as recently as February 25, 2009, cites such examples and concluded:

“ An unregulated, unregistered press is important to our democracy. So are unregulated, unregistered churches. Churches have played an important-no, an essential-part in the democratic life of the United States.... Is it necessary to evoke these historic struggles and the great constitutional benefits won

for the country by its churches in order to decide this case of petty bureaucratic harassment? It is necessary. The memory of the memorable battles grows cold. The liberals who applaud their outcomes and live in their light forget the motivation that drove the champions of freedom. They approve religious intervention in the political process selectively: it's great when it's on their side. In a secular age, Freedom of Speech is more talismanic than Freedom of Religion. But the latter is the first freedom in our Bill of Rights" (Canyon Ferry Road Baptist Church of East Helena v. Unsworth).

Since our country was founded, churches not only led great social movements, but also freely preached directly on political candidates' qualifications for office. That was no problem when the Constitution was signed, or when the first commissioner of internal revenue was appointed in 1862, or when the federal income tax was authorized by the 16th Amendment in 1913. Nor were churches transformed into political machines. Churches simply spoke when their moral voice needed to be heard-even during election season-and decided for themselves how they wanted their pastors to preach.

Tax exemption enabled churches to exist without unnecessary encumbrance by the government and to be the moral force in these great social movements in American history. This historical record of tax exemption is an important reason churches should continue to be tax exempt.

Tax Exemption Protects the Free Exercise of Religion

Churches are tax-exempt under the principle that there is no surer way to destroy the free exercise of religion than to tax it. If the government is allowed to tax churches (or to condition a tax exemption on a church refraining from the free exercise of religion), the door is open for the government to censor and control churches and the free exercise of religion. But that's not just an opinion. It's the understanding of the U. S. Supreme Court.

In *Walz v. Tax Commission*, the high court stated that a tax exemption for churches "creates only a minimal and remote involvement between church and state and far less than taxation of churches. restricts the fiscal relationship between church and state, and tends to complement and reinforce the desired separation insulating each from the other." The Supreme Court also said that "the power to tax involves the power to destroy." Taxing churches breaks down the healthy separation of church and state and leads to the destruction of the free exercise of religion. As the Massachusetts State Tax Commission put it in 1897, "The general exemption of houses of worship is a fit recognition by the State of the sanctity of religion."

For those concerned about an appropriate separation between church and state, no better way exists to ensure it than to keep churches tax exempt. If the government were to begin to tax churches, it necessarily asserts sovereignty, power, and control over churches.

An example of how the government can abuse its power against churches in this area is in the passage of the Johnson Amendment, which prohibits

churches and other non-profits from directly or indirectly supporting or opposing political candidates for office. A church's tax exemption has been conditioned on obedience to this mandate since 1954 when Lyndon Johnson was instrumental in adding this prohibition to the tax code. Scholars agree that the Johnson Amendment was a revenge piece of legislation directed at two non-profit foundations opposing Johnson for Senate. Johnson did not target churches, yet for 55 years, churches have been prohibited from preaching about candidates for office. The Johnson Amendment perpetuates a system requiring government agents to monitor and parse the words of a pastor's sermon to determine whether that sermon violates the law and punishment should be meted out. That system is an excessive and unreasonable government entanglement with religion.

In 1943, the Supreme Court stated, "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in...religion, or other matters of opinion." The court didn't add "...except when pastors address the subject of electoral candidates." Since 1954, the IRS and its petty officials have been able to prescribe for churches what is orthodox in matters of religion. This is not religious freedom in any sense of that phrase. Rather, this is religious orthodoxy mandated by the government, and it falls heaviest on those churches who believe their faith compels them to do what churches have done for centuries: address the moral fitness of electoral candidates from the pulpit.

The Johnson Amendment provides a stark example of the power of the government to destroy the free exercise of religion. The surest way to <https://assignbuster.com/churches-tax-exempt-a-matter-of-constitutional-right-religion-essay/>

protect the free exercise of religion is to continue the healthy separation between church and state fostered by tax exemptions for churches.

### Taxing Churches Involves the Government as Church Speech Police

Since 1954, the government has prohibited churches from speaking about a certain area of life in order to maintain their tax exemption. Pastors are allowed to talk about anything they want to from the pulpit of their church except how Scripture applies to our electoral politics. Called the Johnson Amendment, because of its sponsor Lyndon Johnson, this prohibition has enabled IRS agents to monitor and censor sermons preached from the pulpit for almost 55 years. Allowing the government to condition tax exemption on a church refraining from preaching on a certain issue allows the IRS to act as speech police and monitor churches for compliance.

The Johnson Amendment allows government to determine when a pastor's speech becomes too "political." That is an absurdly ridiculous standard. A pastor's speech from the pulpit that addresses candidates in light of Scripture is religious speech. That speech doesn't become political any more than a pastor's speech becomes commercial when he addresses from Scripture the current financial debacle on Wall Street. Allowing government agents to make that determination is as absurd as asking a first-grader to design and build NASA's next space shuttle.

The Johnson Amendment also allows the government to parse the content of a pastor's sermon to determine whether it violates the law. That is called a content-based restriction on speech, which the Free Speech Clause prohibits unless the government has a compelling reason to censor speech based on <https://assignbuster.com/churches-tax-exempt-a-matter-of-constitutional-right-religion-essay/>



its content. And you would have to ignore reality to agree that any compelling reason existed for Johnson's amendment.

Allowing the government to police speech is a bad idea that contains dangerous consequences for liberty—a principle that our nation's founders understood most clearly. The best way to preserve liberty, and specifically religious liberty, is to get the government speech police out of the business of reviewing a pastor's sermon. That is no place for the government in a free society. Tax exemption for churches protects freedom of speech and gets the government out of the role of policing a church's speech.

### Taxing Churches Makes No Practical Sense

Under simple logic, churches and other nonprofit organizations are exempted from income taxes. Though it's very true that such organizations are beneficial to the public in many ways, that's not what truly justifies their exemption, as is often argued; it is their existence as non-profit entities that does. Taxation naturally applies to profit-makers, the generators of revenue upon which government depends. As Professor Dean Kelley pointed out in his book, *Why Churches Should Not Be Taxed*, "Other entities would be pointless, since they are not in any meaningful sense producers of wealth." It is the very nature of a nonprofit organization that makes it tax exempt in that it does not produce wealth like businesses or other taxed entities. So, it makes no practical sense to tax these organizations.

In fact, taxing such nonprofits discourages their existence and amounts to double taxation. First, all citizens, whether or not involved in a church or other nonprofit, are taxed on their individual incomes. As professor Kelley <https://assignbuster.com/churches-tax-exempt-a-matter-of-constitutional-right-religion-essay/>

again pointed out, “ To tax them again for participation in voluntary organizations from which they derive no monetary gain would be ‘ double taxation’ indeed, and would effectively serve to discourage them from devoting time, money, and energy to organizations which contribute to the upbuilding of the fabric of democracy.” The only thing a tax exemption for a non-profit organization like a church does is to ensure that all the money an individual puts into a non-profit goes to the purposes he intends without being diverted by the government, which the individual already supports in his individual capacity.

Charles Eliot, former President of Harvard, said it best in testimony before the Committee on Taxation in 1906 when he stated, “ The things that make it worthwhile to live...anywhere in the civilized world, are precisely the things which are not taxed.” Churches are one of the things that have made it worthwhile to live in the civilized world. Churches, throughout history, have improved American society and have acted as agents of positive societal change, in addition to their purpose of providing meaning for people’s lives and ministering to the local community. Even many federal court opinions, right up to the present day, have acknowledged this. To tax churches is to discourage the important work they do in society and to double-tax the individuals who support the church. This makes no practical sense.

Read more: Should Churches be Tax Exempt? | Answerbag  
Debates [http://www.answerbag.com/debates/churches-tax-exempt\\_1855555#ixzz0vHJh7kVV](http://www.answerbag.com/debates/churches-tax-exempt_1855555#ixzz0vHJh7kVV)

Church Exemptions Imply Churches Benefit Society Merely by Existing

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Many churches - too many - are taking advantage of the system, using tax exemptions for selfish or even antisocial goals (e. g., Branch Davidians, the “Holy Land” terrorist front, Scientology, and multi-millionaire televangelists).

The fact is that a church is just another kind of club, but it gets special treatment because the club preaches about a mythology or religion (same thing). In order for any other club to gain tax-exempt status, they must adhere to rules and regulations, declare their income, and prove their worth to society as a whole. Religious clubs get treated differently ONLY because they talk about religion, instead of stamp collecting or today’s best-selling books. This is clearly illegal, and it’s clearly wrong.

It’s illegal because it offers benefits to religious institutions but not to their secular counterparts; it’s wrong because it assumes that every religious institution benefits society by merely existing. Churches need not perform any service at all in order to get these massive exemptions; they merely need to declare themselves religious to be tax-free.

Let the Churches Choose!

By removing the automatic tax exemption for religious institutions from the IRS nonprofit code, one of the following two changes will take place at every religious institution:

- 1) They will pay their rightful taxes. This, in turn, will benefit everyone in the community by lowering the tax burden, producing more household income which taxpayers can then turn around and donate to the church of their

choice. As an aside, this will also allow religious organizations to express political views, as many so desire.

-or-

2) They will EARN their nonprofit status by performing real charity work for the community at large (note: “ outreach” is not charity, but merely another word for “ marketing”). Many churches are already doing this, and as long as they can prove their charitable activity in the same manner as other nonprofits, this would continue. However, the possibility of losing tax exemption would be a strong stimulus for churches that are not earning their status to step up their charity work, again helping the community at large.

Churches have been and will continue to be useful to society on the whole, and such earnest organizations should keep their rightful place beside other tax-exempt organizations that serve community and country. By eliminating the religious exemption we would implement a fair and equitable tax provision that benefits everyone except those who abuse the system or leech from it.

Read more: Should Churches be Tax Exempt? | Answerbag

Debates [http://www. answerbag. com/debates/churches-tax-exempt\\_1855555#ixzz0vHJxiEuR](http://www.answerbag.com/debates/churches-tax-exempt_1855555#ixzz0vHJxiEuR)

Anton Tanquintic: uh

Anton Tanquintic: define the purpose of a tax and state that nothing is above the law

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Anton Tanquintic: then defend

Anton Tanquintic: that's one argument

## **Tax Exempt Churches: Religious Freedom vs Tax Exemptions**

Should churches receive tax exemptions on their property? Should religious organizations be tax exempt in their businesses – even those which compete with for-profit companies? Should individuals receive tax deductions for expenses at private religious schools? It is important to understand what sorts of exemptions exist, why they exist, and how the various court cases have proceeded. The more you know, the better informed your judgment will be.

## **Religious Tax Exemptions: Overview of Current Laws**

Tax laws are more complicated than the average person can readily understand; tossing into the mix various things tax-exempt organizations might or might not be allowed to do threatens to make the task of understanding superhuman in nature. In reality, however, the issue isn't all that complicated and the restrictions on what churches and religious organizations can do aren't hard to adhere to.

## **What are Religious Tax Exemptions for Churches?**

To what extent, and even if, tax exemptions should be given to religious organizations and churches depends on why tax exemptions exist at all. If you think tax exemptions exist because charities provide public benefits, you may be suspicious of giving exemptions to churches. If you think tax

exemptions exist because charitable organizations have no net income, then churches will should qualify.

## **Why Taxation of Religion Matters**

Tax exemptions may not be the most common issue facing courts in arguments over the separation of church and state, it is one of the most fundamental. Initially it appears to be a form of government support for religions and religious activities; on the other hand, the power to tax is the power to restrict or destroy, so is exempting religions from taxation a means of ensuring their independence?

## **Do Churches Deserve Tax Exemptions?**

Based upon court rulings on how tax exemptions for charitable groups work, we cannot be conclude that churches and religious organizations automatically deserve exemptions. Even if one believes that their religion and their church provide a necessary public service, it does not follow that all religions and churches necessarily provide a public service which merits support through tax exemptions.

## **Are Tax Exemptions a Church Subsidy?**

One of the key arguments offered by those who oppose tax exemptions for churches and religious organizations is that tax exemptions constitute a type of subsidy for these groups. Subsidies for religious organizations are unconstitutional, however, because they represent a means by which churches are able to obtain public, taxpayer support for their religious goals.

## **Tax Exemptions vs. Church Political Activity**

By not taxing churches, the government is prevented from directly interfering with how churches operate. By the same token, those churches are also prevented from directly interfering with how the government operates in that they cannot endorse any political candidates, they cannot campaign on behalf of any candidates, and they cannot attack any political candidate.

## **Church Tax Exemptions: No Political Campaigning**

Not all churches and religious organizations have been content to live within the rules. Quite a few have attempted to evade the rules, either secretly or very openly, in order to allow churches and religious groups to participate actively in political campaigns even while retaining their charitable tax-exempt status.

## **Religious Tax Exemptions vs. Government Policies**

Most people are aware that a church or religious organization can lose their tax exempt status for engaging in partisan political activity, like endorsing a political candidate. What many aren't aware of, though, is that the same can happen for promoting or engaging in things contrary to government policy. Tax exemption is a privilege, not a right.

## **Backlash Against Religious Tax Exemption Laws**

It is a fact of law that charitable organizations, including churches, which have tax-exempt status are not allowed to participate in political campaigns on behalf of political candidates. A focus of current efforts is to make a direct

change in how the laws read in order to ensure that churches can become fully active in political campaigns.

## **Tax Exemptions Available to Churches**

America's tax laws are designed to favor non-profit and charitable institutions which presumably benefit the community. Churches benefit the most from tax exemptions because they qualify for many of them automatically, whereas non-religious groups have to go through a more complicated application and approval process. Why?

## **Commercial Tax Exemptions for Church Businesses**

Tax exemptions on church property used for specific worship purposes or religious work may be most easily defended because of the charitable and community work performed. Serious problems come into play, however, when church property is used for commercial purposes. To what extent should the business activities of a religious organization be tax

At a time when ordinary people are being told to tighten their belts and to expect massive reductions in public spending in order to repay the huge government debt incurred as the result of the financial crisis, there are two groups of people who continue to live it up:

1 - The greedy and incompetent investment bankers who caused the financial crisis in the first place and who, nevertheless, continue to use the governments' recapitalisation handouts to pay themselves obscene bonuses.

2 - Religious organisations.



While the United States and the European Union are responding to the bankers' abject failure to show self-restraint by imposing restrictions on their bonus payments, they have done nothing to redress the fact that religious organisations are ripping the rest of us off by not paying any tax. [1]

So while decent, hard-working families struggle to make ends meet, televangelists such as Creflo Dollar continue to swan about in their brand new Rolls-Royces [2] and Catholic priests carry on living the life of Reilly in their tax-free, all-expenses-paid parochial houses. [The YouTube clips are humorous, of course, but there is many a true word said in jest.]

And how many hard-working, God-fearing family men can afford to hire young sex-workers to accompany them on luxury, ten-day tours of Europe? Not many, but Baptist Minister George Alan Rekers can. [3] That's partly because he doesn't pay any tax. (In the interests of full disclosure here, by the way, I should point out that Rekers denied knowing that his companion was a male prostitute, even though he hired him from rentboy. com).

To put this matter into perspective, The Church of England (CofE) rakes in £1 billion (\$1. 52 billion) every year tax-free and yet its own website states that even though " over £200 million is given tax-efficiently each year through Gift Aid" and " a further £60 million is recovered from the Inland Revenue in tax." [4]

In other words, the CofE not only avoids contributing to the public purse, it is actually jewing £60 million pounds a year out of it!

And things are even worse in Germany where citizens are subject to the 'Kirchensteuer' (Church Tax) which nets protestant priests over EUR8 billion (£7 billion / \$10 billion) every year. [5] A similar situation exists in Denmark, Sweden, Austria, Switzerland, Finland and Iceland where citizens are also forced by law to give a percentage of their income to the church.

It seems to me that, with religious observance on the decline to a point where, according to the CofE's own figures only one million people - just 1.6% of the British population - go to church on Sundays [5], the church is becoming increasingly irrelevant in today's more enlightened society. And yet the churches are still growing fat at the expense of ordinary, hard-working citizens who have to make up the shortfall in tax receipts.

This is a scandalous and outdated state of affairs and I believe it is high time that churches paid their way and, therefore, I duly affirm that religious organisations should no longer enjoy their tax-exempt status.

Thank you.

[1] <http://www.irs.gov...>

[2] <http://www.cbsnews.com...>

[3] <http://www.independent.co.uk...>

[4] <http://www.cofe.anglican.org...>

[5] <http://www.kirchensteuer.de...> (in German)

[6] <http://www.cofe.anglican.org...>

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## Report this Argument

Con

Religious organizations, in my opinion, should not pay taxes from church collections and other donations. Money gotten through collections and donations has already been taxed (it comes from a group of people who have already have been taxed). Additionally, the majority of the money gained through collections and donations is used in the purpose of helping others (examples include Haiti, earthquakes, money used to organize soup kitchens, and so on). Additionally, you will note that in certain countries, such as Ireland, 85%<sup>[1]</sup> of the population attends church. That would mean the Church in Ireland does have significant impact on the population.

Religious individuals, on the other hand, should be taxed. I don't believe that it is fair reverends who earn proceeds through televised programs ought to be allowed to keep any of it, or if they would be allowed, then that income ought to be taxed. Any actual business (such as mass selling, investments, and so on, also ought to be taxed as it is a method of earning). Collections and donations should not be taxed as they are gifts.

I apologize in advance for any spelling and/or grammar mistakes and for unclear sentences.

Additionally, I apologize for having such a short counter-argument, however, I am short on time. I beg your understanding.

[1]<http://www.nationmaster.com...>

## Report this Argument

Pro

I would like to thank Bernardio for his considered comments to which I make the following responses:

Ideally, there would be no taxes, but a country must raise funds somehow.

In the past, if a king needed money he would assemble a fleet of frigates and galleons that would be bristling with guns and canons. He would load these ships with cargos of soldiers and send them across the Atlantic to the New World to rape and pillage newfound civilisations, and plunder their gold and have it repatriated back to Europe.

Unfortunately though, these days the United Nations take a dim view of such activities and it is, therefore, necessary for the government to collect money from the general populace instead.

This inevitably leads to the double-taxation my opponent referred to. You pay tax on the money you earn and when you buy something with the money left over the recipient pays tax on the profit from the sale.

But my opponent suggests that churches shouldn't pay tax because they "help others" in places like Haiti.

I looked into this and discovered that a Baptist group from Idaho did indeed travel to Haiti in the aftermath of the earthquake to "help others" - they

were arrested and accused of attempting to traffic 33 children out of the country. [1]

Presumably their intention was to sell the youngsters on to paedophiles rings in America and if they had not been caught they would have succeeded in their mission - their mission being to " help others" sexually molest vulnerable children.

Meanwhile the Jewish Orthodox Union uses their tax-free donations to fund the Institute for Public Affairs [2] which is an American lobby group that opposes humanitarian aid being sent to victims of military aggression in Palestine, rejects the United Nations and international law and supports the ethnic cleansing of Jerusalem and the illegal Jewish land grabs in the West Bank.

At the same time, there are widespread concerns that tax-free donations made to mosques may be channelled into the hands of Islamic terrorist groups. [3]

With regard to countries such as Ireland where church attendances are higher, the income from tax paid by the churches would be very helpful in reducing their budget deficits and allow them to spend more money on schools and hospitals.

In conclusion, the activities of religious organisations may seem worthy and noble by some: Christian paedophiles; racist Jews; Islamic terrorists and others; but not everybody welcomes having to pay more tax to make up for

the shortfall in receipts from tax-exempt churches, temples, mosques and synagogues.

Thank you.

<http://www.debate.org/debates/Religious-organisations-should-no-longer-enjoy-their-tax-exempt-status/1/>

[1] <http://www.telegraph.co.uk...>

[2] <http://www.ou.org...>

[3] <http://www.foxnews.com...>

Report this Argument

Con

Agreed, a country must raise taxes to run a government though I question my opponents comment on the fact that pillaging is now illegal is a bad thing. I, personally, enjoy the fact that people can't run around burning and stealing.

I also concede that there was a, emphasis on a, single group of Baptists who were trying to use the situation in Haiti to there advantage. However, the information that did not get to the media were all the other parishes that collected and sent money for actual aid to refugees.

As far as the Jewish Orthodox Union using money for illegal activities is something that ought to be fixed, but you'll note that the Catholic Church

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does not use their tax free status for illegal activities. If you suggest that one example of someone(s) doing something bad ought to influence laws for everyone, then we ought to all b