



THE NONPROFIT
ASSOCIATION OF
OREGON

Connect. Improve. Advance.

Why Weakening the Johnson Amendment Would Be Devastating For Nonprofits

A quick reminder: What is the Johnson Amendment and what changes are being proposed?

The Johnson Amendment is another name for the provision in [Section 501\(c\)\(3\) of the Internal Revenue Code](#) that provides that charitable nonprofits can't endorse or oppose candidates for office, can't coordinate their activities with candidates, political parties, or PACs, and must refrain from making political campaign contributions. It was introduced in 1954 by then-Senator Lyndon Johnson before being passed by a Republican Congress and signed into law by President Dwight Eisenhower.

Section 5201 of the House tax plan ([H.R. 1](#)) would severely weaken the Johnson Amendment by allowing charitable nonprofits, foundations, and churches to make partisan campaign statements "in the ordinary course" of their "regular and customary activities" and to spend a "*de minimis*" amount on political activities. (Good luck finding clear definitions of what "in the ordinary course" of a nonprofit's activities or "*de minimis*" mean!) While the Senate tax plan fully preserves the Johnson Amendment, President Trump and Vice President Pence are reportedly pushing hard for Section 5201 to be a part of the final tax plan that is being negotiated behind closed doors at this very moment.

Why would this change affect every 501(c)(3) organization?

Here are four reasons why the repeal or weakening of the Johnson Amendment will ultimately harm your nonprofit, even if – actually, *especially if* – your organization has no interest in endorsing or opposing candidates for office.

1. It will almost certainly take money away from your nonprofit's mission.

The nonpartisan Joint Committee on Taxation (JCT), the congressional entity that assesses the fiscal impact of tax law changes, estimates that weakening the Johnson Amendment for five years (from 2019 through 2023, as proposed in the House tax plan) would reduce federal revenue by \$2.1 billion. That's because billions of dollars of campaign contributions will be diverted from directly contributions to candidates, political parties, and PACs into tax-deductible payments to churches and other 501(c)(3) organizations to influence electoral outcomes. This will [make fundraising more challenging for traditional campaign committees](#) (which will now have to compete for funds with nonprofits that can offer a tax deduction to political contributors) and for nonprofits seeking support for their program and activities (which will now have to compete with political contributions for tax-deductible dollars).

This revenue loss for nonprofit programs and activities adds onto the [structural changes in both the House and Senate tax plans](#) that are expected to lead to a [loss of between \\$12 billion and \\$20 billion in charitable contributions every year](#). If your nonprofit's programs and services are currently over-funded, then the financial ramifications of Section 5201 of the House tax plan may not be problematic for your nonprofit (but read on for some other problems you may encounter). If not, you should probably be concerned.

2. It will allow politicians to have more influence over your nonprofit's work.

One of the great things about the Johnson Amendment is that it protects charitable nonprofits from getting dragged down by pay-to-play politics. Without the shield of nonpartisanship, nothing would stop mayors and city council members from denying funding to worthy nonprofits that didn't endorse them in the most recent election. And state legislators would be motivated to shut their doors to nonprofits that decline to use their names – and quite possibly even their money – to support these politicians' next campaigns. This means that many nonprofits would effectively have the choice of: (a) giving up their nonpartisanship (read on for problems that may come from this); or (b) giving up their voice on public policy issues and their access to government grants and contracts.

3. It will give your donors leverage to force your nonprofit into partisan politics.

The reality is that many nonprofit donors also have strong opinions on politics. If the Johnson Amendment goes away, these donors can condition their contributions on your endorsement of their chosen candidates or political parties. Or, they can be slightly more subtle and hint that: "I was thinking about writing a big check to your nonprofit. It sure would be great (wink, wink!) if your organization decided my friend, the polarizing politician, as the keynote speaker at your big fundraising gala the weekend before next November's election!"

4. It will weaken your nonprofit's brand.

In our communications about the importance of protecting nonprofit nonpartisanship, we have often said (blatantly stealing a quote from David Thompson of the [National Council of Nonprofits](#)) that the repeal of the Johnson Amendment would transform 501(c)(3) nonprofits into Democratic charities and Republican charities instead of the nonpartisan problem solvers that they are today. As noted above, without the protection of the Johnson Amendment, it is almost certain that politicians or donors will pressure your nonprofit to get involved in partisan politics. By its nature, partisan politics is divisive. Nonprofits, on the other hand, are generally inclusive by their nature.[1] When your nonprofit becomes pulled into the game of endorsing or opposing political parties or individual candidates for office, you sacrifice this inclusiveness and run the risk of losing the trust of people with different political viewpoints, including some of your staff, board members, volunteers, donors, and clients. This effectively taints your nonprofit's brand.

A final observation

I was recently in a meeting that included representatives from a mix of 501(c)(3) charitable nonprofits and 501(c)(4) social welfare organizations (which can endorse candidates since they aren't covered by the Johnson Amendment). Every organization in the room, regardless of tax status, had a clear mission that involved helping communities across North Carolina. Near the end of the meeting, everyone was asked to identify a key priority for their organization in the coming year. The representatives from 501(c)(3) nonprofits described programmatic or public policy goals that were tied to their organizations' missions. But every participant who worked for a 501(c)(4) organization listed their group's top goal as "endorsing candidates who will get elected" and then added "oh, and . . ." (insert a policy change related to their organization's mission). The clear takeaway: **Without the Johnson Amendment, mission will become a secondary concern for many nonprofits.**

Adopted from our sister association North Carolina Center for Nonprofits – thank you!

Developed and written by: David Heinen, Vice President for Public Policy and Advocacy, [North Carolina Center for Nonprofits](#)

