No. 26–1779

In The

Supreme Court of the United States

October Term 2025

Scott Bessent, In his Official Capacity as
Acting Commissioner of the Internal Revenue Service, ET AL.,

Petitioners,

v.

Covenant Truth Church,

Respondent.

On Writ of Certiorari to the
United States Court of Appeals
for the Fourteenth Circuit

No. 25-304533

Brief for Petitioners

Team 1
Attorneys for Petitioners

Oral Argument Requested

QUESTIONS PRESENTED

I. Whether the circuit court erred in finding that it had jurisdiction to hear Respondent's suit under Article III and the Tax Anti-Injunction Act when Respondent filed its pre-enforcement suit to prevent the IRS from assessing its tax-exempt status?

II. Whether the circuit court erred in finding that 26 U.S.C. § 501(c)(3) violates the Establishment Clause when its language generally requires that all charitable organizations, religious and non-religious, refrain from political intervention and when the government has a fundamental policy interest in remaining neutral?

TABLE OF CONTENTS

TABLE OF AUTHORITIES

United States Supreme Court Cases

Secondary Sources

OPINIONS BELOW

The opinion of the United States District Court for the District of Wythe is not attached in the record. The August 1, 2025 decision of the United States Court of Appeals for the Fourteenth Circuit affirming the district court's decision on the motion for summary judgment can be found in the Record. R. at 1-16.

STATEMENT OF JURISDICTION

A formal Statement of Jurisdiction has been omitted in accordance with the Rules of the William and Mary Law School Moot Court Competition.

CONSTITUTIONAL AND STATUTORY PROVISIONS

This case involves a controversy arising under the Anti-Injunction Act, which provides, in relevant part: "no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court by any person." 26 U.S.C. § 7421(a). This case also refers to 26 U.S.C. § 7428. This case involves the Johnson Amendment, 26 U.S.C. § 501(c)(3). Additionally, this case implicates the First Amendment to the United States Constitution, which states: "Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof." U.S. Const. amend. I. The case also involves Article III of the Constitution. U.S. Const. art. III, § 2.

STATEMENT OF THE CASE

Statement of the Facts

In 1954, Congress, including then-Senator Lyndon B. Johnson, amended the Internal Revenue Code. R. at 2. The Johnson Amendment governs organizations with § 501(c)(3) tax-exempt status and provides that they must not "participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office." *Id*. Congress has repeatedly declined to eliminate the Johnson Amendment from the Internal Revenue Code or exempt religious organizations from its scope. R. at 3. As such, it remains good law today. *Id*.

Respondent is a church and § 501(c)(3) tax-exempt organization whose members practice the religious beliefs of the Everlight Dominion. R. at 3. Among those beliefs, the Everlight Dominion compels its leaders and churches to be actively involved in political campaigns. R. at 4. Respondent, through its Pastor Gideon Vale, produced a number of podcasts discussing political issues and encouraging followers to vote, volunteer, and make donations to the political campaign of Congressman Samuel Davis in his bid to become senator. *Id*. This support is largely rooted in Congressman Davis's adherence to the social values followed by the Everlight Dominion. *Id*. Pastor Vale was aware that these political activities violated the Johnson Amendment, which governs the Church's § 501(c)(3) status. R. at 5. In accordance with its routine procedures, the Internal Revenue Service informed Respondent on May 1, 2024 of its intent to conduct an audit of its tax information. R. at 5.

Procedural History

In May, 2024, Respondent filed suit in District Court seeking to permanently enjoin the IRS from enforcing the Johnson Amendment, and claimed that the Johnson Amendment violated

the Establishment Clause of the First Amendment. R. at 5. The District Court for the District of Wythe concluded that Respondent had standing to challenge the Johnson Amendment and that the Amendment violated the Establishment Clause. *Id*. Consequently, the court granted Respondent's motion for summary judgment, and entered a permanent injunction in its favor. *Id*. Acting Commissioner of the IRS Scott Bessent, and the IRS (collectively, Petitioners) appealed to the Fourteenth Circuit Court of Appeals. *Id*.

On appeal to the Fourteenth Circuit, that court concluded that Respondent had standing to challenge the Johnson Amendment, both because it found the suit not barred by the Anti-Injunction Act, and because it found the planned audit to amount to "substantial risk" of enforcement sufficient to create an Article III injury. R. at 6–7. The Fourteenth Circuit also concluded that the Johnson Amendment violated the Establishment Clause of the First Amendment. R. at 8–11. The Fourteenth Circuit entered judgement on August 1, 2025.[1] Commissioner Bessent and the IRS petitioned for a writ of certiorari, which this Court granted on November 1, 2025,[2] to address whether Respondent has standing under the Anti-Injunction Act and Article III of the Constitution to challenge the Johnson Amendment, and whether that Amendment violates the First Amendment's Establishment Clause. R. at 17.

SUMMARY OF THE ARGUMENT

First, the Court lacks jurisdiction to hear Respondent's suit because it is expressly barred by the Anti-Injunction Act ("AIA" or "the Act") and because Respondent lacks Article III standing. Through the Anti-Injunction Act, Congress plainly indicated through which routes an organization can challenge an adverse determination against its §501(c)(3) tax-exempt status.

[1] The date of the Fourteenth Circuit Court decision is not recorded within the record. It was supplied upon request for clarification on January 7, 2026.
[2] The date of the Supreme Court's decision to grant cert is not recorded within the record. It was supplied upon request for clarification on January 7, 2026.

That statutory scheme makes clear that judicial review is available to plaintiffs only after an adverse determination by the IRS. Respondent's suit attempts to circumvent that legislatively-designed scheme by suing before any determination has been made by the IRS regarding its tax-exempt status. While two recognized exceptions to the Anti-Injunction Act have been acknowledged by the Court, Respondent's claim does not satisfy the required elements of either and is categorically barred by the Act.

Respondent likewise lacks Article III standing to challenge the Johnson Amendment. Under Article III of the Constitution, a party can only bring an action when it has suffered a concrete and particularized injury, which Respondent has not. The IRS has not even conducted its audit, let alone issued an adverse determination about Respondent's tax-exempt status. The Fourteenth Circuit allowed Respondent's speculative chain of future events to be sufficient to satisfy this injury requirement, an approach expressly forbidden by this Court. Respondent also cannot establish that it faces a substantial risk of imminent enforcement sufficient to create pre-enforcement standing. Accordingly, separation of powers concerns compel the Court to decline to exercise jurisdiction where, as here, the party bringing suit cannot satisfy this baseline constitutional hurdle. Therefore, the Court need not reach the merits of Respondent's Establishment Clause claim.

This Court has consistently recognized that the government's interest in keeping the affairs of church and state separate is of great importance. This nation's history and traditions support the requirement to keep 26 U.S.C. § 501(c)(3) organizations from interacting in politics. This Court has protected many diverse voices and faiths by ensuring that the government does not send a message of favoritism over any one religion. The Johnson Amendment's generally applicable requirements do not impose a selective impact on religious communications, but

rather they provide guidelines on how religious practices can comply with fundamental public policy. The requirement that § 501(c)(3) organizations not entangle in politics is narrowly tailored to a compelling interest of keeping the government out of religious favoritism. Accordingly, the Johnson Amendment is not in violation of the Establishment Clause. Petitioners respectfully request that this Court reverse the ruling of the United States Court of Appeals for the Fourteenth Circuit.

ARGUMENT

Standard of Review

The first issue on appeal is whether Respondent had standing to bring a claim under Article III and the Tax Anti-Injunction act. R. at 17. Issues implicating a matter of standing are reviewed *de novo* by this Court. *Stolt-Nielsen S.A. v. AnimalFeeds Int'l Corp.*, 559 U.S. 662, 688 (2010) (Ginsburg, J., dissenting) (explaining that the Court was "indulging in *de novo* review" on a matter of ripeness). The second issue on appeal is whether the Johnson Amendment's prohibition from participating in political campaigns is unconstitutional. R. at 17. Issues involving the constitutionality of a federal statute are reviewed *de novo* by appellate courts. *United States v. Martinez-Martinez*, 295 F.3d 1041,1043 (9th Cir. 2002).

I. RESPONDENT'S PRE-ENFORCEMENT SUIT IS JURISDICTIONALLY BARRED BY THE ANTI-INJUNCTION ACT AND ARTICLE III, AND THE COURT SHOULD THEREFORE NOT REACH THE ESTABLISHMENT CLAUSE.

Federal courts are courts of limited jurisdiction and are bound to only adjudicate actual "cases" and "controversies." U.S. Const. art. III, § 2. Since the early days of our Nation, the Court has acknowledged a duty to decline to adjudicate issues over which Article III does not grant it jurisdiction. *Marbury v. Madison*, 5 U.S. 137 (1803). Absent the necessary jurisdiction, federal courts are unable to hear a suit, regardless of the question at issue. *Whitmore v. Arkansas*,

495 U.S. 149, 155–56 (1990). This limitation ensures that the judiciary does not exceed its constitutionally assigned role or intrude upon the separation of powers. *United States v. Richardson*, 418 U.S. 166, 188 (1974). Accordingly, courts must resolve jurisdictional defects before reaching the merits on any claim. *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94–95 (1998).

Congress has imposed an additional jurisdictional bar within the context of federal tax administration through the Anti-Injunction Act ("AIA" or "the Act"). The Act provides that no court can entertain a suit seeking to restrain the assessment or administration of federal taxes by any party. 26 U.S.C. § 7421(a). The AIA channels disputes about federal tax administration through a specifically designated channel and requires plaintiffs to exhaust administrative remedies before judicial review is available, and only after an adverse determination by the IRS. 26 U.S.C. § 7428. The Congressional intent laid out in the act "could scarcely be more explicit." *Bob Jones Univ. v. Simon*, 416 U.S. 725, 736 (1974). Importantly, while exceedingly narrow exceptions to the Act have been carved out by this Court, *see Enochs v. Williams Packing & Navigation Co.,* 370 U.S. 1 (1962); *South Carolina v. Regan*, 465 U.S. 367 (1984), suits asserting a constitutional challenge to the tax code are not automatically exempt from this framework. *Alexander v. Ams. United Inc.*, 416 U.S. 752, 759 (1974) (reasoning that "the constitutional nature of a taxpayer's claim … is of no consequence under the Anti-Injunction Act"). Where a federal court lacks standing to hear a dispute, separation-of-powers concerns compel that court to refrain from reaching the merits of that dispute. *Schlesinger v. Reservists Comm. to Stop the War*, 418 U.S. 208, 221 (1974).

A. The Anti-Injunction Act (26 U.S.C. § 7421) Bars Pre-Enforcement Suits That Would Restrain Federal Tax Administration.

The Anti-Injunction Act imposes a statutory prohibition on suits that would interfere with the administration or collection of federal taxes. 26 U.S.C. § 7421(a). It provides, in relevant part, that "no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court." *Id*. The Act requires that questions regarding federal tax assessment or collection must proceed through the designated administrative process. *Id*. Once the IRS has made an adverse determination regarding an organization's § 501(c)(3) tax-exempt status, and the organization has exhausted the available administrative remedies, the dispute is then subject to judicial review. 26 U.S.C. § 7428. This framework makes clear that courts are to refrain from entertaining judicial review of tax administration before a plaintiff has pursued those administrative channels. *Id*. In the rare circumstance that Congress has provided no administrative route to relief, this Court has provided plaintiffs a direct route to judicial review that is not barred by the Act. *Regan*, 465 U.S. at 367. However, § 7428 provides an explicit route to judicial review for organizations seeking to challenge their § 501(c)(3) status determination.

Courts attempting to determine if a suit seeks to restrain tax assessment or collection ignore the label placed on the suit by the plaintiff and, instead, look to its practical effect. *Simon*, 416 U.S. at 738. This analysis extends beyond the direct assessment and collection of taxes, and the AIA bars even those suits seeking to halt activities which may reasonably result in assessment or collection of taxes. *United States v. Dema*, 544 F.2d 1373, 1375 (7th Cir. 1976). Under those circumstances, judicial relief remains squarely unavailable, provided the existence of an alternative route to remedies. *Alexander*, 416 U.S. at 761. Under this practical effect test, however, not all suits that might have an impact on tax assessment are forbidden by the Act. Indeed, the Court has acknowledged that some suits not aimed at tax provisions may, as an

incidental byproduct, impact tax administration. *CIC Servs. v. IRS*, 593 U.S. 209, 216 (2021). Such suits are not foreclosed by the AIA, as they do not meet the requirement that the practical effect is to restrain tax administration. *Id*. However, suits attempting to enjoin the IRS from assessing an organization's § 501(c)(3) status are viewed as fitting squarely inside the Act's intended prohibition. *Simon*, 416 U.S. at 731-32.

1. *The Act Channels Tax Disputes Into a Carefully Designed Review Scheme Which Forecloses Pre-Enforcement Judicial Intervention.*

The Anti-Injunction Act shows the deliberate choice of Congress to channel disputes over the administration of federal taxes into a detailed review scheme and rule out pre-enforcement judicial intervention that attempts to circumvent that process. The Court has explained that the Act's "principal purpose" is to protect "the Government's need to assess and collect taxes with a minimum of pre-enforcement judicial interference." *Simon*, 416 U.S. at 736. In carrying out that purpose, Congress structured federal tax administration so that tax disputes first go through the administrative process, leaving judicial review available only in limited circumstances. *Id*. at 736-37. These channeling decisions reflect Congress's acknowledgement that administration of the Internal Revenue Code is crucial to government operations. As such, the AIA is designed to ensure efficient and effective administration of the code without the IRS being hailed into court at the outset of every dispute.

Allowing pre-enforcement suits would greatly inhibit the administration of a tax code that is crucial in funding necessary federal programs and invite premature adjudication against the will of Congress. The AIA serves to prevent these outcomes by requiring tax disputes to proceed through a mechanism designed to allow the free administration of the tax code without unwarranted judicial intervention, even when plaintiffs raise constitutional questions to the tax code. *Id*. Congress further reinforced this scheme by providing specific avenues to judicial relief,

including declaratory judgment for certain organizations that have been subjected to adverse tax classification actions. *See* 26 U.S.C. § 7428. Section 7428 authorizes judicial review only after the IRS has made an adverse determination regarding an organization's tax status and only after exhausting administrative remedies. *Id*. The language of the Act makes clear that pre-enforcement is simply too early for judicial review.

Respondent's suit disregards this process by requesting the Court to intervene before the IRS takes any administrative action. Rather than allowing the IRS to conduct its routine audit to determine whether Respondent remains eligible for its § 501(c)(3) status through the required administrative process, Covenant Truth Church seeks judicial intervention to resolve this dispute before one actually exists. That route to relief is incompatible with the scheme laid out in the AIA. As in *Simon*, Respondent attempts to bypass the statutory framework governing federal tax disputes by seeking premature judicial relief in place of the administrative process mandated by the Act. 416 U.S. at 736–37. Because Congress deliberately confined judicial review of tax administration disputes to a post-determination framework, the AIA requires courts to enforce that sequencing and decline pre-enforcement review. Respondent's suit therefore cannot stand in light of § 7421(a).

2. *Respondent's Suit Falls Squarely Within the Act's Core Prohibition.*

The Anti-Injunction Act bars pre-enforcement suits whose practical effect is to restrain the administration or assessment of federal taxes. *Simon*, 416 U.S. at 738. The Act is not limited only to those actions that seek to restrain the immediate collection of a tax, but also to those that would interfere with actions that are an integral part of the federal taxing scheme, such as determination of tax liability. *Id*.; *Koin v. Coyle*, 402 F.2d 768 (7th Cir. 1968). Since tax-exempt status governs whether an organization is subject to tax liability, and whether contributions to it are tax deductible, among other determinations, see 26 U.S.C. § 501(c)(3), the ability of the IRS

to enforce the requirements of that exemption lies at the core of federal tax administration. *Simon*, 416 U.S. at 731–32. A suit that attempts to prevent the IRS from administering these provisions of the Internal Revenue Code therefore restrains tax administration within the coverage of the Anti-Injunction Act. *Dema*, 544 F.2d at 1373. Moreover, plaintiffs cannot overcome the practical effect assessment by drafting artful pleadings where a restraint on tax administration is disguised as a constitutional question. *Alexander*, 416 U.S. at 759-61. While the AIA does not forbid suits which would have only an incidental tax consequence, *CIC Servs*., 593 U.S. at 216, a suit aiming to foreclose a route by which the IRS may seek to impose a tax falls squarely under the umbrella of the AIA. *Simon*, 416 U.S. at 738-39.

Courts applying the Anti-Injunction Act to cases like this one have consistently treated challenges that attempt to interfere with the IRS's determination of tax-exempt status as falling within the core prohibition of the Act. Determination of an organization's § 501(c)(3) eligibility impacts not only the manner and timing by which administration of the Internal Revenue Code can occur, but whether an organization will be subject to tax liability at all. Simon, 416 U.S. at 731-32. In *Simon*, the plaintiff, a private university, sought to enjoin the IRS from revoking its § 501(c)(3) status due to its racially-biased admissions practices. *Id*. at 735. There, this Court was unconvinced of its explanation that its goal was not to restrain tax administration, holding that the University's complaint "belie[d] any notion" that such a suit was not for the purpose of restraining federal tax administration. *Id*. Similarly, in *Regan*, this Court acknowledged that the AIA is intended to forbid suits in which Congress has provided an alternative legal avenue to relief. 465 U.S. at 373.

Lower courts have likewise followed this foundation uniformly. In *Dema*, the Seventh Circuit overturned a district court decision granting an injunction against the IRS requesting to

audit the books of the plaintiff. 544 F.2d at 1735. That court held that it is "clear that this ban against judicial interference is applicable not only to the assessment or collection itself, but is equally applicable to activities which are intended to or may culminate in the assessment or collection of taxes." *Id*. at 1376. In *Jud. Watch v. Rossotti*, 317 F.3d 401, 407–09 (4th Cir, 2003), the Fourth Circuit, following the same lead, declined to issue an injunction which sought to halt the IRS's revocation of an organization's tax-exempt status. There, the court reasoned that its interference at such an early stage would improperly hinder the IRS's enforcement actions. *Id*. Each case reflects a settled understanding that challenges to IRS activities crucial to the tax regulatory scheme are forbidden under the AIA.

Respondent's suit falls squarely in line with this authority. The suit at bar is before this Court because Covenant Truth Church seeks to permanently enjoin the IRS from enforcing a provision of the Internal Revenue Code. Respondent brought this suit out of fear that it would have its tax-exempt status revoked. R. at 5. This is precisely the action that this Court has already rejected in *Simon*. 416 U.S. at 749. As in that case, Respondent's suit here "leave[s] little doubt that a primary purpose of this lawsuit is to prevent the Service from assessing and collecting income taxes." *Id.* at 738. Nor is Respondent's suit differentiable from *Judicial Watch*. There, the plaintiff seeking injunctive relief alleged that the IRS sought to impose a tax on it for retaliatory reasons. *Judicial Watch*, 317 F.3d at 406. Even this could not persuade that court to ignore the Anti-Injunction Act, holding that an attribution of non-tax related motives was of no moment, and that secondary motives "do not eliminate the prohibition in the Anti-Injunction Act." *Id.* at 407. Here, Respondent likewise seeks to assert a claim of selective enforcement of the Johnson Amendment to get around the Act's central prohibition. R. at 8. Even if the IRS intended to enforce the Johnson Amendment against Respondent, the Church's assertion of

selective enforcement is, again, of no moment, as the IRS seeks to carry out a duty over which it holds statutory authority, making Respondent's claims of ulterior motivation irrelevant in finding this suit precluded by the AIA.

Nor can Respondent attempt to dodge the Act by framing its request on a constitutional basis. Courts have repeatedly seen through similar attempts at artful pleading in upholding the central purpose of the Act. *See*, *e.g.*, *Alexander*, 416 U.S. at 760–61. Instead, what matters here is whether the practical effect of the relief sought is to restrain functions central to federal tax administration and, here, that effect would be to shield Respondent from the application of federal tax laws before the IRS has carried out its evaluative function. This case is also unlike the circumstances where the Court has found the Act to not apply. In *CIC Servs*., the Court emphasized that the suit in question was aimed not at a central element of tax administration, but at an independent regulatory mandate. 593 U.S. at 606–08. There, the Court found that suit to fall outside of the AIA, reasoning that any potential tax consequence was merely incidental to the essential purpose of the action. *Id.* By contrast, Respondent's challenge aims directly at the IRS's authority to determine its tax-exempt status. Preventing the IRS from auditing Respondent's tax records in an attempt to shield it from tax liability restrains tax administration in the most direct sense. As a result, the AIA simply does not allow the relief that Respondent requests.

Because the practical effect of Respondent's suit would be to restrain essential tax administration by preventing the IRS from enforcing core provisions of the Internal Revenue Code governing tax-exempt status, the Anti-Injunction Act applies and bars this action. The Court must therefore dismiss Respondent's pre-enforcement action for lack of jurisdiction.

3. *Neither Recognized Exception to the AIA Applies to Save Respondent's Suit.*

Although the Anti-Injunction Act is subject to exceptions, those exceptions are necessarily narrow and apply only in exceptional circumstances. The Court has made clear that pre-enforcement relief is unavailable unless a plaintiff can demonstrate either that the claim it seeks to bring is certain to succeed on the merits, *Williams Packing*, 370 U.S. at 6–7, or that Congress has foreclosed any alternative path to judicial relief. *Regan*, 465 U.S. at 381. While those cases carve out special exceptions, they also highlight the high threshold Respondent must clear for its suit to fall outside of the Anti-Injunction Act. Respondent bears the burden of proving that one exception or the other applies, and neither does here.

a. Respondent is Uncertain to Succeed on the Merits.

The narrow exception created by the Court in *Williams Packing* applies only when "it is clear that under no circumstances could the Government ultimately prevail" on the merits and that, absent judicial intervention, it will suffer irreparable harm. 370 U.S. at 7. This standard is "extraordinarily demanding" and is not satisfied where the merits present close questions, substantial legal disputes, or unresolved factual issues. *Id*; *Alexander*, 416 U.S. at 758–59. The exception thus applies only in cases where the government's position is plainly certain to lose at the outset. As the court in *Wiliams Packaging* emphasized, suits for injunctive relief against tax provisions can only be maintained if "under the most liberal view of the law and the facts, the United States cannot establish its claim." 370 U.S. at 7. Respondent cannot meet that exceptional burden here.

At a minimum, Respondent's challenge raises substantial and contested legal questions concerning the scope, application, and validity of provisions that govern its § 501(c)(3) tax-exempt status. The Court has made clear that, where a plaintiff's success depends on the

resolution of a disputed legal issue, the *Williams Packing* exception does not apply. *Alexander*, 416 U.S. at 759 (holding that uncertainty as to the merits alone defeats the exception). Plainly, the exception requires certainty, and anything less would result in the Court resolving a dispute about tax administration before determining which party will succeed on the merits, foreclosing a potential claim under this exception. *Williams Packing*, 370 U.S. at 7. At a more critical level, however, Respondent's case is far from certain to succeed on the merits. Previous adjudication over this exact issue ended in favor of the government. *Branch Ministries v. Rossotti*, 211 F.3d 137, 144 (D.C. Cir. 2000). There, the D.C. Circuit found that the Johnson Amendment was viewpoint neutral and did not violate the Establishment Clause. *Id*. Respondent cannot purport to be certain to succeed on the merits where plaintiffs asserting the same claim have previously failed.

Because Respondent cannot demonstrate it is certain to succeed on the merits, the Court need not reach the second prong of the test set out in *Williams Packing*. The *Williams Packing* exception is thus unavailable to Respondent, and the AIA therefore still controls.

b. Congress Carved Out Alternative Routes to Judicial Review.

The second recognized limitation to the Anti-Injunction Act applies only when Congress has provided no alternative route to judicial review on a tax-related claim. *Regan*, 465 U.S. at 381. That exception, too, is narrow and applies only when, absent pre-enforcement judicial review, a plaintiff would be wholly deprived of their ability to challenge a tax-related issue in court. *Id*. at 378-81. Where Congress has created a post-determination review mechanism, the exception does not apply, even if that mechanism requires significant patience or exhaustion of administrative avenues. *Simon*, 416 U.S. at 746. Here, Congress has expressly provided a primary route through which Respondent can, and must, seek the remedy it desires.

26 U.S.C. § 7428 provides an avenue for Respondent to seek a declaratory judgment action in federal court. Respondent simply must wait until an adverse determination is made by the IRS concerning its § 501(c)(3) status before that remedy becomes available, provided other administrative remedies have been exhausted. 26 U.S.C. § 7428(a), (b). Congress has made clear that federal taxing disputes must proceed through administrative channels first and, only afterwards, may Respondent seek judicial review it asks for now. *Simon*, 416 U.S. at 746. The existence of this post-determination remedy forecloses any claim by Respondent that it is entitled to pre-enforcement review.

The Court has repeatedly emphasized that a delay in obtaining judicial review is not a denial. *Id*. at 746-47; *Regan*, 465 U.S. at 381. That principle applies in full force where, as here, Respondent seeks judicial review before the IRS has made any determination at all. Congress has crafted a scheme which ensures Respondent has access to judicial review. It simply must wait for the § 501(c)(3) status revocation it fears to actually take place, and then follow the administrative process Congress designed. Due to the existence of this remedy mechanism, Respondent cannot invoke the absence-of-remedy exception to the Anti-Injunction Act. Its pre-enforcement suit therefore remains barred by the Act.

B. The Court Lacks Jurisdiction Because Respondent Has Not Suffered an Injury Sufficient to Establish Article III Standing.

Even if Respondent's suit can clear the statutory hurdle of the Anti-Injunction Act, it is independently barred on constitutional grounds as Covenant Truth Church has not suffered the required injury-in-fact. To establish Article III standing, a plaintiff must demonstrate that it has suffered an injury that is concrete and particularized, as well as one that is either actual or imminent. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992). Allegations of possible future harms, relying on contingent chains of future events which are uncertain to occur, do not suffice

to establish the jurisdiction of a federal court. *Id*. at 564; *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 409–10 (2013).

1. *Article III Requires a Concrete and Particularized Injury that is Actual or Imminent.*

Built into the requirements in Article III that a plaintiff must suffer a "concrete" and "particularized" injury, *Lujan*, 504 U.S. at 560, is the understanding that speculation about future government enforcement decisions are insufficient to establish the required injury-in-fact. *Id*. at 564. The Court has emphasized that standing may not rest on a speculative chain of future events. *Clapper*, 568 U.S. at 398. In *Clapper*, the Court rejected standing where the plaintiff's alleged injury relied on speculation about future events, including discretionary decisions by government officials. *Id*. at 410-14. Courts may not assume that the government will enforce a statute against a particular plaintiff, nor may they assume that each link in a plaintiff's hypothetical enforcement chain will occur. *Id*. at 413. Allowing standing on that basis would collapse Article III's injury requirement into a general right to challenge laws before they are ever applied.

Closely related, a plaintiff cannot satisfy the Article III injury requirement by demonstrating subjective fear or self-imposed restraint. *Laird v. Tatum*, 408 U.S. 1 (1972). The Court has long held that a plaintiff's decision to alter its own conduct out of perceived government surveillance or possible enforcement does not in itself create an injury unless that fear is objectively reasonable. *Id*. at 13-14. Where the alleged injury consists of a chilling effect unsupported by a credible threat of enforcement, the injury is "self-inflicted" and insufficient to establish jurisdiction. *Clapper*, 568 U.S. at 416; *NH Right to Life Pol. Action Comm. v. Gardner*, 99 F.3d 8, 13–14 (1st Cir. 1996). Even sincere anxiety about how a law may be applied does not constitute injury-in-fact. *Allen v. Wright*, 468 U.S. 737, 755–56 (1984). Nor does Article III

permit standing based on the mere possibility of future harm divorced from any concrete enforcement action. *TransUnion LLC v. Ramirez*, 141 S. Ct. 2190, 2210–11 (2021).

The Fourteenth Circuit breezed past this foundational determination before issuing its decision on the merits. In determining that Respondent satisfied Article III's injury requirement, that court greatly oversimplified this constitutional building block, instead requiring Respondent only to answer "What's it to you." Antonin Scalia, *The Doctrine of Standing as an Essential Element of the Separation of Powers*, 17 SUFFOLK U. L. REV. 881, 882 (1983). While Justice Scalia's question presents a brief, incredibly simplified version of the injury requirement, relying exclusively on it to exercise jurisdiction over Respondent's suit ignores a constitutional imperative to ensure the party bringing suit has suffered an injury. This analysis departed from settled standing doctrine by treating Respondent's speculation as a true injury-in-fact.

Article III requires more than the identification of some law which could be enforced against a party at some indeterminate point in the future. Still, the Fourteenth Circuit skipped over the required standard and, instead, treated the mere existence of a regulation which Respondent admitted to be in violation of, and the threat of future IRS action as sufficient, without identifying any concrete enforcement steps taken by the IRS. R. at 7-8. This reasoning impermissibly collapses the distinction between speculative fear and actual injury. This Court has expressly rejected standing theories relying on such speculative chains of events. *Clapper*, 568 U.S. at 410–14. Here, Respondent's injury relies on multiple speculative events: the initiation of an audit, a discretionary enforcement decision, an adverse determination regarding its tax-exempt status, and the enforcement of a tax consequence. Absent any indication that these events are imminent, Article III does not permit the Fourteenth Circuit's decision to exercise jurisdiction.

2. *The IRS's Consent Decree Demonstrates a Lack of Substantial Threat of Enforcement.*

Standing in a pre-enforcement challenge requires a higher threshold than just the fear that a law may some day be enforced against a plaintiff. To establish injury-in-fact before enforcement has occurred, a plaintiff must demonstrate a credible and substantial threat of enforcement that is sufficiently imminent to amount to a concrete injury. *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 159–64 (2014). Courts assess this threat by examining the government's past history of enforcement and whether the plaintiff is realistically subject to penalty. *Id*. The absence of past enforcement is particularly probative in this analysis. Where a challenged provision has not been historically enforced, and where the government affirmatively indicates its intent not to enforce, courts routinely conclude that future enforcement is unlikely. *Speech First, Inc. v. Fenves*, 979 F.3d 319, 330 (5th Cir. 2020); *Gardner*, 99 F.3d at 13–14.

The Fourteenth Circuit plainly failed to apply these principles. Rather than requesting Respondent to demonstrate a substantial likelihood of enforcement, that Court took for granted that a planned audit demonstrated a substantial threat of enforcement. R at 7-8. Instead, it treated the mere existence of the Johnson Amendment as being sufficient to establish standing. However, the record confirms that no substantial threat of enforcement exists. To use the words of the Fourteenth Circuit itself, "[i]t is well known that the IRS generally does not enforce the Johnson Amendment." R. at 8. That court largely ignored this important pattern of non-enforcement. Harder to ignore, however, is that the IRS has entered into a consent decree explicitly stating that it will not enforce the Johnson Amendment "[w]hen a house of worship in good faith speaks to its congregation, through its customary channels of communication on matters of faith in connection with religious services." *See* U.S. Opp. to Mot. to Intervene, *Nat'l Religious Broad. v. Long*, No. 6:24-cv-00311, 2025 WL 2555876 (E.D. Tex. July 24, 2025). This

consent decree blatantly undermines any representation by Respondent that it faces a substantial threat of imminent enforcement of the Johnson Amendment. Absent Respondent's ability to demonstrate such a substantial risk of enforcement, the Fourteenth Circuit's decision to exercise jurisdiction over this suit is patently forbidden by Article III.

C. Separation of Powers Considerations Require Courts to Not Decide Conflicts Over Which It Lacks Jurisdiction, so the Court Should Not Reach the Establishment Clause.

Article III's limitations serve as a structural boundary on judicial power, ensuring that federal courts only exercise jurisdiction where there is a real and identifiable need for judicial intervention. *Schlesinger*, 418 U.S. at 221. Where that requirement is not met, no question may proceed to the merits regardless of its significance. The Court has made clear that "[a] federal court is powerless to create its own jurisdiction by embellishing otherwise deficient allegations of standing." *Whitmore* 495 U.S. at 155–56. When a court proceeds to the merits in a dispute over which it lacks the jurisdiction that Article III requires, it not only issues what is essentially an advisory opinion, but intrudes on the separation of powers that is at the very core of our governmental structure. That is precisely what occurred when the Fourteenth Circuit reached Respondent's Establishment Clause issue without clearing this foundational jurisdictional hurdle.

Such an approach carries significant separation of powers implications. Absent actual or imminent injury, permitting courts to oversee legislative function "would significantly alter the allocations of power away from a democratic form of government." *Richardson*, 418 U.S. at 188. Respondent requests the Court to ignore these separation of powers considerations in two ways. First, Respondent seeks judicial intervention in a statutory review scheme that specifically forbids it at this stage of the administrative process, against the express wishes of Congress. Second, and most importantly, Respondent asks the Court to ignore the core constitutional

principles expressed in Article III and exercise jurisdiction over its dispute with the IRS before it has suffered the required injury. The Constitution does not allow either result. Accordingly, the Court need not reach the Establishment Clause, and should instead decide this dispute on jurisdictional grounds.

II. THE JOHNSON AMENDMENT DOES NOT VIOLATE THE FIRST AMENDMENT BECAUSE ITS HISTORY INDICATES NEUTRALITY, IT IS UNIVERSALLY APPLIED TO SATISFY FAVORITISM CONCERNS, AND IT IS TAILORED TO AVOID EXCESSIVE ENTANGLEMENT.

The second issue presented to this Court requires a contextual analysis to determine if the 26 U.S.C. § 501(c)(3) policy violates tenants of the First Amendment, U.S. Const. amend. I. The First Amendment of the United States Constitution mandates neutrality by providing that "Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof." U.S. Const. amend. I. The Internal Revenue Service reserves the right to impose secular conditions as to which entities, including religious organizations, will be eligible to receive tax exemptions. *See* § 501(c)(3). A government policy that places some burden on religious liberties is not automatically deemed unconstitutional. *Thomas v. Rev. Bd. of Indiana Emp. Sec. Div.*, 450 U.S. 707, 718 (1981). The Court considers whether the legislative purpose of tax exemption is not meant to sponsor or establish religion, and that its effect is not excessive entanglement. *Walz v. Tax Comm'n of N.Y.*, 397 U.S. 664, 674 (1970).This Court has weighed tools like the history and tradition of a provision, *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 525 (2022), and signals of government endorsement, *see Lynch v. Donnelly*, 465 U.S. 668, 687 (1984) (O'Connor, J., concurring), to consider its constitutionality. This Court has explained that policies that are not designed to burden religious interests, but rather do so incidentally in the pursuit of promoting substantial government interests, are justifiably constitutional. *Gillette v. United States*, 401 U.S. 437, 462 (1971).

In this case, Respondent has failed to demonstrate an excessive infringement on its religious rights, and the government has demonstrated the Johnson Amendment is designed to comport with Constitutional demands. First, the history and tradition of the Amendment align with the Framer's separationist intent. Second, the reasonable observer who is aware of the context of the provision would not perceive favoritism for one religion over another, or religion over no religion. Third, while the Amendment may coincide with some tenants of religion in its effect, it does not target excessively entangle with religious activity. Finally, even if this Court finds favoritism upon the face of the amendment, the amendment was sufficiently narrowly tailored to the least restrictive means. Accordingly, this Court should reverse the Circuit Court's decision.

A. The Restrictions Against Political Campaigning on Tax Exemptions Granted to Nonprofit Organizations Derive From Secular Origins.

The Court consults the context and legislative history of a provision to better understand its objective and purpose. *Concrete Pipe & Prods of Cal., Inc. v. Constr. Laborers Pension Tr. for S. Cal*, 508 U.S. 602, 607 (1993). § 501(c)(3) provides that any foundation "organized and operated exclusively for religious . . . purposes . . . which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for political office" shall qualify for tax exemption. This Court ensures that a government show neither hostility, nor generosity toward a single religious belief. *Texas Monthly, Inc. v. Bullock*, 489 U.S. 1, 9 (1989). As this Court has noted, the endeavor to support neutrality is no small feat because of the nation's vast expanse of backgrounds and cultures. *See Gillette*, 401 U.S. at 457 (explaining that "[o]urs is a nation of enormous heterogeneity in respect of political views, moral codes, and religious persuasions.").

1. *The Objective History and Tradition of the Johnson Amendment Align With That of the First Amendment.*

To determine constitutionality, the Court looks to the history of a provision and considers whether the intent and understanding of the framers is reflected therein. *Kennedy*, 597 U.S. at 536; *see also Town of Greece v. Galloway*, 572 U.S. 565, 577 (2014). The Court has acknowledged that the nation's history is "replete with official references to the value and invocation of Divine guidance." *Lynch*, 465 U.S. at 675. Nevertheless, this Court has long recognized the framer's emphasis on separating the affairs of the Church and the State. *See Reynolds v. United States*, 98 U.S. 145, 164 (1878).

While the country's culture involves religious principles, that culture does not provide reason to believe the framers would encourage religious mutilation that the Johnson Amendment prevents. This Court has revered the "wall of separation" that Thomas Jefferson explained existed between the state and the church. *Epperson v. Arkansas,* 393 U.S. 97, 106 (1968). Even within a discussion to amend the Pledge of Allegiance to include "under God" in its language, Congress heeded that the "American Government is founded on the concept of individuality[.]" H.R. Rep. No. 83-1693 (1954). The Johnson Amendment's language, which has been present since its inception in the '50s, R. at 2., prohibits all organizations, whether faith based or no, from campaigning for any candidate, *Branch Ministries*, 211 F.3d at 144.

Here, the tradition of the Amendment's consistent application signals its alignment with the Framer's intent. It conditions that a religious organization may not use public, tax-funded dollars to campaign for a candidate that acts in accordance with its religious principles. *See* § 501(c)(3). It is hard to imagine a policy that aligns with Jefferson's "wall of separation" more closely. Like the framers feared the pressure on government that establishment of religion would inflict, the language of the statute shows the drafters of § 501(c)(3) had mirrored concerns. The

policy reacts to the pressure that government funded, religiously backed politics would inevitably create. It protects individuality by preventing taxpayer dollars from enabling nationally broadcasted religion.

Furthermore, that this nation is chock-full of individuals who invoke spiritual guidance in their personal lives does not automatically mean that such individuals wish to invite such matters into the governmental space. To argue that religion has been historically situated near politics, the Fourteenth Circuit points to Martin Luther King's argument that Christians should feel a personal responsibility to take a stand on civil rights. R. at. 9–10. This message was a clear call on individuals to evaluate personal morals and counter discrimination. It was not, however, a proposition that the government facilitate a singular belief system via regulation. While the nation's history suggests some deference to religious ideals, it has never justified affirmative faith based political promotions. The Johnson Amendment justly codifies that fact.

2. *A Reasonable Observer who is Aware of the Context of the Policy Would Not Perceive a Message of Favoritism Towards Nonreligious Organizations.*

Although this Court has formally abandoned the *Lemon v. Kurtzman,* 403 U.S. 602, 612–613 (1970) test previously used to assess establishment clause violations, endorsement test considerations may still provide helpful analysis. *See Lemon*, 403 U.S. at 546 (explaining that the "Court [has overruled *Lemon*] and [called] into question decades of subsequent precedents that it deems 'offshoot[s]' of that decision."). The endorsement principle prohibits the government from promoting policy that sends a message of approval or disapproval of religion, so that there are favored insiders and disfavored outsiders of a political community. *Cnty. of Allegheny v. Am. C.L. Union Greater Pittsburgh Chapter*, 492 U.S. 573, 593–94 (1989). A key consideration in implementing tax exemptions for charitable organizations is that religion is not favored. *Walz*, 397 U.S. at 669.

Allowing tax funds to advertise religious teachings promotes a message of favoritism. In *Texas Monthly*, the Texas legislature had granted sales tax on periodicals that promulgated teachings and writings of religious faith. *Texas Monthly, Inc. v. Bullock*, 489 U.S. 1, 5–6 (1989). The Court held that the exemption was state sponsorship of religious belief, and therefore unconstitutional under the First Amendment. *Id.* at 25. The Court reasoned that tax exemptions render non-qualifiers as vicarious donors, so it would be inequitable to allow policy that unjustifiably awards religious organizations. *Id*. at 15.

Failure to enforce the Johnson Amendment against religious entities signals a message of discrimination against nonreligious entities. In *Shulman*, a nonreligious nonprofit brought claims alleging that the IRS had preferred churches by allowing them to engage in electioneering when it would not allow secular organizations to do the same. Freedom From Religion Found. Inc., Pl., v. Shulman, Commissioner of the I.R.S., Def., Compl. para. 35, 2012 WL 5936699. The court denied the IRS's motion to dismiss, finding it possible that the unequal treatment claims had merit. *Freedom from Religion Found., Inc. v. Shulman*, 961 F. Supp. 2d 947, 954 (W.D. Wis. 2013). Ultimately, the nonprofit withdrew its claims against the IRS. United States' Reply in Supp. of the Joint Mot. for Dismissal, 2014 WL 4185476.

Here, given that nonreligious entities have already flagged the importance of the policy, the public will inevitably perceive a message of favoritism if this Court abandons § 501(c)(3). In addition to the allegations presented in *Shulman*, secular nonprofits have joined together to oppose "any attempt to undermine nonprofit nonpartisanship [which] is deeply unpopular with Americans." Maureen Leddy, Nonprofits Oppose New IRS Stance on Church Political Activities, Thompson Reuters Checkpoint News, https://tax.thomsonreuters.com/news/nonprofits-oppose-new-irs-stance-on-church-political-

activities/ (last visited Jan. 1, 2026). This evidence explains that many Americans perceive the Johnson Amendment as a protection against politicization of the charitable sector. *See id.* As the Court explained how tax exemptions implicate vicarious donors in *Texas Monthly,* 489 U.S. at 15, a reasonable observer would likely appreciate the protections § 501(c)(3) provides against that implication. The § 501(c)(3) policy is not what threatens notions of favoritism, but rather the lack of policy.

B. The Condition on Tax Exemptions to Refrain from Political Entanglement has not Effectuated Disparate Treatment Towards Religious Organizations.

The government must act neutrally regarding matters of religions. *Epperson*, 393 U.S. at 103–104. This Court has described room for "play in the joints" between the Free Exercise and Establishment clauses, which allows religious regulation in the event of inference or sponsorship. *Walz*, 397 U.S. at 669. Religious entities subject to § 501(c)(3) must comply with any "valid and neutral law of general applicability on the ground that the law proscribes . . . conduct that [its] religion prescribes" *Emp. Div. v. Smith,* 494 U.S. 872, 879 (1990) (quoting *United States v. Lee*, 455 U.S. 252, 263 (1982)). Just because a religious organization has a religious conviction that conflicts with concerns of the society does not give that organization a pass on the "discharge of political responsibilities." *Smith,* 494 U.S. at 879.

1. *The Restriction Against Political Campaign Involvement Does Not Impose an Affirmative Requirement to Refrain from Religious Activity or Foster Excessive Entanglement with Religion.*

Laws may interfere with religious practices, *Reynolds*, 98 U.S. at 166, so long as they do not impose coercive favoritism, *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203, 205 (1963), or only ban the practices when they are acted on for religious reasons, *Smith* 494 U.S. at 877. Only where an organization's eligibility for an exemption turns on "inherently religious choices" rather than secular criteria are there grounds for an Establishment Clause violation.

Cath. Charities Bureau, Inc. v. Wis. Lab. & Indus. Rev. Comm., 605 U.S. 238, 250 (2025). Only exemptions that impose theological preference or differentiate along denominational lines have this inherently religious criteria. *See id.* at 248.

Mere restriction on political advertisement weighed against financial benefit does not create unconstitutional pressure on religion. In *Branch Ministries*, the IRS revoked a Christian church's tax-exempt status based on its activity of placing advertisements to shame behavior of politician Bill Clinton as adverse to Bible teachings. *Branch Ministries*, 211 F.3d at 140. In that case, the Church argued that losing a tax exemption caused an unconstitutional burden by minimizing funds available for religious practice and limiting its means of communication about political sentiments. *Id*. at 143. The court held that the IRS acted constitutionally by applying § 501(c)(3) to revoke the church's tax exemption. *Id.* at 145. The court reasoned that these inconveniences are not enough to satiate a First Amendment claim because the statute's restrictions on the church are viewpoint neutral. *Id*. at 144.

Absolute bans on core religious activity are distinct from restraints on socially harmful communications. In *Lukumi Babaulu Aye*, the Court held that a local ordinance targeted religious conduct and was therefore in violation of constitutional principles. *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah.*, 508 U.S. 520, 527 (1993). In that case, a Floridian city passed an ordinance to ban animal sacrifice, but allow animal killings that otherwise "[made] sense." *Id.* at 544). For the Santeria religion, a faith being practiced in the community, animal sacrifice was considered a key ritual of devotion. *Id*. at 524. In that case, the record provided ample evidence that much of the city considered the Santeria religion to be sinful *Id.* at 541. The city's constituents openly declared its distaste for and inability to tolerate the Santeria's practices. *Id.* at

542. The Court reasoned that the ordinances at issue had been enacted "because of" the City's intent to suppress the Santeria religious practice. *Id.* at 540.

Here, the IRS has not targeted inherently religious choices or interfered with religious practices that are only being acted on for religious purposes. The government has prohibited all recipients, religious and non-religious, of the exemption from getting involved in political campaigns. Although the Everlight Dominion teaches political participation as a religious activity, political campaigning is not socially understood as a religious choice. Like the church in *Branch Ministries* had an option to create a political action committee, *Branch Ministries*, 211 F.3d at 143, Everlight has other options to communicate its political sentiments. It can certainly advertise its progressive stances within its community, without proselytizing beyond. Furthermore, Everlight has no doubt gained profit from the millions of downloads it has drawn and the fifteen thousand new members it has attracted via political campaigning, R. at 4. As the court in *Branch Ministries* explained, the loss of a tax exemption would only decrease the amount of money available for Respondent to continue its religious practice. *Branch Ministries*, 211 F.3d at 142. Given the podcast's reported success, and that § 501(c)(3) has not financially crippled the religion thus far, a choice between losing the exemption or policy compliance is not coercive; Respondent's religion existed for "centuries" without this political broadcast, R. at 3, so there is no reason to think its loss would cause detrimental harm.

Additionally, the IRS has not banned a core religious belief distinct to Respondent, but rather it has restrained harmful practices in the interest of societal responsibility. Unlike the local ban of animal sacrifice that was passed solely out of hatred for a minority religion in *Lukumi Babalu Aye*, 508 U.S. at 542, the § 501(c)(3) ban on political entanglement did not originate out of hate for the Everlight Dominion religion. In that case there was a wealth of record to indicate

the legislation had been purposefully passed to target the Santeria religion. *Lukumi Babalu Aye*, 508 U.S. at 540. Here, there is only record of separationist concerns that predate Respondent's engagement with digital podcasting. *See* R. at 4. Indeed, this Court has explained that the "hazards of churches supporting government are hardly less in their potential than the hazards of government separating churches; each relationship carries some involvement rather than desired insulation and separation." *Walz*, 397 U.S. at 675. Respondent is not suffering at the expense of a targeted policy, but it is instead being asked to comply with a policy that interferes with political campaigning for non-religious reasons. The Johnson Amendment may coincide with religious activity, but that is not enough to render it unconstitutional.

2. *Conditioning Tax Benefits on Separation from Political Campaigning is a Compelling Government Interest that is Narrowly Tailored.*

If this Court still finds that Respondent has made a showing of facial favoritism within § 501(c)(3), then the government will satisfy the strict scrutiny burden. Strict scrutiny requires the government shows it had a compelling interest that was narrowly tailored in its fulfillment. *Kennedy*, 597 U.S. at 525. This Court has held that "not all burdens on religion are unconstitutional," *Bob Jones Univ. v. United States*, 461 U.S. 574, 603 (1983) (quoting *Lee*, 455 U.S. at 257–258), because a limitation on religious liberty may be justified by showing it is essential to accomplish a governmental interest, *Lee*, 455 U.S. at 257.

The government has a significant compelling interest in continuously operating universally applied systems that benefit the greater nation as a whole. In *Lee*, a member of the Amish religion did not file his or his employees' social security taxes on employment, claiming it was averse to the faith to either pay or receive social security benefits. *Id*. In that case, the Court contemplated the significant governmental interest in providing a systematic continuous social security system *Id.* at 258–59. It explained that some religious practices must yield certain

guarantees in order to promote a common good. *Id*. at 259. It reasoned that "Congress . . . [has] been sensitive to the needs flowing from the Free Exercise Clause, but every person cannot be shielded from all the burdens incident to exercising every aspect of the right to practice religious beliefs." *Id.* at 261.

There is no room to accommodate religious practices when they present potential to cause greater social harm. In *Bob Jones*, the Court held that the government's interest in terminating racial discrimination outweighed any burden on exercise of religious beliefs. *Bob Jones Univ*, 491 U.S. at 604. In that case, the IRS revoked the tax-exempt status from a religiously affiliated university that had justified racist admissions policies under the guise of fundamentalist Christian beliefs. *Id*. at 580–81.The Court admonished racial discrimination in education as a phenomenon that "violates deeply and widely accepted views of elementary justice." *Id*. at 592. It reasoned that determinations of an organization's qualifications should be only made if its activities are not in opposition of fundamental public policy, which in this case was the just effort of antidiscrimination. *Id.* at 598.

Here, the government has narrowly tailored its exemption to universally prevent nonprofit partisanship and to accommodate freedom of expression without government promotion. Like the Court's interest in maintaining systematic social security in *Lee*, 455 U.S. at 259, the Court has a great interest in preventing government endorsement of religion. Respondent's attempt to justify intertwining politics, religion, and government regulation can not override this compelling interest. § 501(c)(3) is as narrowly tailored as possible because it rules out political involvement without further digging into specific customs of religious practice.

Additionally, like the Court found countering racial discrimination to be more compelling that validating Christian fundamentalist views in *Bob Jones Univ*, 491 U.S. at 582. Just as the

government had an important role to prevent a societal harm of racial discrimination, here the Court should recognize the societal harm of government backed political campaigning. Respondent's activities are in opposition to the fundamental "wall of separation" public policy that allows a diverse set of religions to thrive. Protecting each individual's right, including adherents of the Everlight Dominion religion, to self-expression without Government promotion is the most compelling interest of all.

Respondent requests that this Court look beyond its traditional reasoning in two ways. First, Respondent asks this Court to turn a blind eye to a clear message of favoritism: that the government will allow an organization to promote its political and religious beliefs and still authorize a tax-exemption. Second, Respondent argues that its need for political intervention is more compelling than the government's interest in a "wall of separation." Neither a message of endorsement, nor entanglement in religious practices comport with the Court's rule of neutrality. The Johnson Amendment has held over decades as a narrowly tailored regulation, which addresses this compelling fundamental policy need. Accordingly, the Court should find that the Johnson Amendment is constitutional.

CONCLUSION

For the foregoing reasons, Petitioners respectfully request that this Court REVERSE the decision of the Fourteenth Circuit Court of Appeals.

Dated: January 18, 2026

Respectfully submitted,

_____

Team 1
Attorneys for Petitioners