No. 26-1779

In the Supreme Court of the United States

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

BRIEF FOR THE PETITIONERS

Oral Argument Requested

TEAM 9
Counsel for the Petitioners
THE LAW FIRM OF TEAM 9

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

UNITED STATES SUPREME COURT CASES:

UNITED STATES CIRCUIT COURT CASES:

UNITED STATES DISTRICT COURT CASES:

CONSTITUTIONAL PROVISIONS:

STATUTES:

QUESTIONS PRESENTED

I. Whether Covenant Truth Church has standing under the Tax Anti-Injunction Act and Article III to challenge the Johnson Amendment.

II. Whether the Johnson Amendment violates the Establishment Clause of the First Amendment.

LIST OF PARTIES

Petitioners are Scott Bessent, in his official capacity as Acting Commissioner of the Internal Revenue Service, and the Internal Revenue Service. Respondent is Covenant Truth Church. There are no additional parties to the proceeding.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Fourteenth Circuit is reported at 345 F.4th 1 (14th Cir. 2025). The court of appeals issued a majority opinion authored by Judge Washington and a dissenting opinion authored by Judge Marshall.

The opinion of the United States District Court for the District of Wythe, granting summary judgment and entering a permanent injunction, is unreported.

JURISDICTIONAL STATEMENT

The United States Court of Appeals for the Fourteenth Circuit entered judgment on August 1, 2025. Petitioners timely filed a petition for a writ of certiorari, which this Court granted on November 1, 2025. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

This case raises issues under Article III of the United States Constitution and the Establishment Clause of the First Amendment. U.S. Const. art. III; U.S. Const. amend. I.

Statutory authority relevant to this case includes 26 U.S.C. § 501(c)(3), commonly referred to as the Johnson Amendment, which conditions tax-exempt status for certain nonprofit organizations on refraining from participation or intervention in political campaigns. This case further implicates the Tax Anti-Injunction Act, codified at 26 U.S.C. § 7421(a), which restricts suits seeking to restrain the assessment or collection of taxes. This case also

implicates 26 U.S.C. § 7428, which provides declaratory judgment procedure for certain controversies involving tax-exempt status determinations.

STATEMENT OF THE CASE

Statutory and Historical Background

Section 501(c)(3) provides preferential tax treatment to qualifying nonprofit organizations, including churches, conditioned on compliance with enumerated statutory requirements. R. at 1–2. In 1954, Congress amended the Internal Revenue Code to include then-Senator Lyndon B. Johnson's proposal requiring that a qualifying organization "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." 26 U.S.C. § 501(c)(3); R. at 2. The "Johnson Amendment," as it has been coined, "passed without debate" and remained part of the Internal Revenue Code even after the 1986 revision. R. at 2.

The Johnson Amendment operates as a condition for receipt of § 501(c)(3) status and corresponding exempt status from federal income tax. R. at 1–2. Organizations that wish to retain the federal tax benefits associated with that classification must comply with the statutory restrictions, while organizations that do not wish to operate under those restrictions may forgo § 501(c)(3) treatment. R. at 15. In the past fifteen years, the Johnson Amendment has generated increasing controversy and calls for repeal, including assertions that it violates the First Amendment. R. at 2. Since 2017, legislation has been introduced each year to eliminate the Johnson Amendment or to create a religious exception, but Congress has repeatedly declined to do either. R. at 3.

This appeal arises from a suit filed by Covenant Truth Church ("Respondent") seeking to enjoin enforcement of the Johnson Amendment. R. at 2.

Factual Background and Procedural History

The Everlight Dominion and Covenant Truth Church. The Everlight Dominion is described as a centuries-old religion embracing progressive social values. R. at 3. As part of its teachings, it requires leaders and churches to participate in political campaigns and support candidates aligned with its stances, including endorsements, encouraging donations, and encouraging volunteerism. R. at 3. Per the rules in place, any church or leader who fails to engage in such political activity is to be banished from the Everlight Dominion. R. at 3.

Covenant Truth Church is a church practicing the Everlight Dominion and is classified as a § 501(c)(3) organization for tax purposes. R. at 3. Pastor Gideon Vale joined the church in 2018 when it had "only a few hundred members" and later became its head pastor. R. at 3.

Pastor Vale's Outreach, Audience, and Growth. Pastor Vale sought to increase the church's appeal to younger generations, including creating a weekly podcast to deliver sermons, provide spiritual guidance, and educate the public about the Everlight Dominion. R. at 3–4. He also leads weekly worship services. R. at 4. Between 2018 and 2024, the church's membership increased from a few hundred to nearly 15,000 as its services were offered both in person and via livestream. R. at 4.

By 2024, Pastor Vale's podcast had a broad reach, ranking as the fourth-most listened-to podcast in the State of Wythe and the nineteenth-most listened-to podcast nationwide, drawing "millions of downloads from across the country." R. at 4.

The Endorsement of Congressman Davis and Planned Political Sermons. Consistent with Everlight Dominion teachings, Pastor Vale used the podcast to deliver political messages supporting candidates aligned with the cause. R. at 4. Although not every episode addressed

politics, he used the platform to endorse candidates and encourage listeners to vote, donate, and volunteer. R. at 4.

In January 2024, Senator Matthew Russett of Wythe died at age ninety, triggering a special election to fill the remaining four years of his term. R. at 4. The election was expected to be contentious because the Senate had been evenly divided between the two major parties. R. at 4. Congressman Samuel Davis announced his candidacy. R. at 4.

During a podcast sermon, Pastor Vale endorsed Congressman Davis on behalf of Covenant Truth Church, discussed in detail the alignment between Davis' political stances and Everlight Dominion teachings, and encouraged listeners to vote for Davis, as well as to volunteer and donate to his campaign. R. at 4–5. Furthermore, Pastor Vale announced his intention to deliver a series of sermons in October and November 2024—both via podcast and live at the Covenant Truth Church—explaining why members should vote for Congressman Davis. R. at 5.

IRS Audit Selection and Respondent's Pre-Enforcement Suit. The Internal Revenue Service ("IRS") conducts random audits of § 501(c)(3) organizations to ensure compliance with the Internal Revenue Code and provisions such as the Johnson Amendment. R. at 5. On May 1, 2024, the IRS notified Covenant Truth Church by letter that it had been selected for a random audit. R. at 5. Pastor Vale, admittedly aware of the conditions required by the Johnson Amendment, became concerned that the IRS would discover the church's political involvement and revoke its § 501(c)(3) classification. R. at 5.

On May 15, 2024, Respondent filed this suit in the United States District Court for the Eastern District of Wythe seeking a permanent injunction prohibiting enforcement of the Johnson Amendment on the ground that it violates the Establishment Clause. R. at 5. As this litigation has

proceeded, it is crucial to note that the IRS never initiated its audit, and the church's § 501(c)(3) tax classification "remains unchanged." R. at 5.

United States District Court for the Eastern District of Wythe. After Respondent filed suit for a permanent injunction, Petitioners answered with a blanket denial, to which the Respondent moved for summary judgment. R. at 5. The district court held that Respondent had standing and found the Johnson Amendment unconstitutional under the Establishment Clause, granting summary judgment and entering a permanent injunction. R. at 5–6. Petitioners appealed the decision to the United States Court of Appeals for the Fourteenth Circuit. R. at 6.

United States Court of Appeals for the Fourteenth Circuit. The Fourteenth Circuit affirmed the district court's entry of summary judgment and a permanent injunction against enforcement of the Johnson Amendment, but Judge Marshall dissented and would have dismissed for lack of jurisdiction. R. at 11–12. In Judge Marshall's view, the Tax Anti-Injunction Act bars this pre-enforcement suit because Respondent's Establishment Clause challenge is "directly tied" to its concern about potential loss of § 501(c)(3) status. R. at 12. Additionally, he explained that Respondent could not satisfy the demanding pre-enforcement standard, which requires a showing of both a certainty of success on the merits and irreparable harm. R. at 12.

Emphasizing that Congress has provided a post-determination path for organizations that lose § 501(c)(3) status—administrative appeal followed by potential federal-court review under 26 U.S.C. § 7428 after exhaustion—Judge Marshall asserted that Respondent's proper course is to await an adverse determination, not to litigate in anticipation of one. R. at 13.

Judge Marshall continued by insisting that Respondent lacked Article III standing because its feared enforcement depended on a "speculative chain of possibilities." R. at 14. He emphasized the government's disclaimed intent to enforce the Johnson Amendment against houses of worship

and cited a consent decree providing that the IRS will not enforce the Johnson Amendment "[w]hen a house of worship, in good faith, speaks to its congregation through customary channels in connection with religious services." R.at 14; *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).

Finally, although he would have dismissed on jurisdictional grounds alone, Judge Marshall explained that the Johnson Amendment is constitutional because it applies on secular, neutral terms to both religious and nonreligious § 501(c)(3) organizations. R. at 15. In his view, the restriction is viewpoint neutral, and any organization that still wishes to support political campaigns may instead organize under § 501(c)(4). R. at 15.

As the IRS has filed a petition for further review, this Court has granted certiorari to decide: (1) whether Respondent has standing under the Tax Anti-Injunction Act and Article III to challenge the Johnson Amendment; and (2) whether the Johnson Amendment violates the Establishment Clause of the First Amendment. R. at 17.

SUMMARY OF THE ARGUMENT

This Court should reverse because Respondent's suit is nonjusticiable and, in any event, the Johnson Amendment is constitutional. Respondent filed a pre-enforcement action based on a contingent fear that a routine audit might eventually lead to an adverse tax-status determination. Yet no audit was initiated, no enforcement action was taken, and Respondent's tax classification remained unchanged. On these facts, Respondent cannot invoke federal jurisdiction to obtain an injunction that would interfere with the administration of the tax laws.

First, the Respondent's case is nonjusticiable. Primarily, the claim lacks the basis for Article III standing, which requires a concrete, particularized injury that is actual or imminent, not conjectural. Respondent's theory depends on a chain of contingencies: that an audit will proceed,

that it will uncover disqualifying conduct, that the government will choose to pursue enforcement, and that enforcement will culminate in the loss of tax-preferred status. Such a speculative sequence does not establish an imminent injury. Nor can Respondent manufacture standing through a subjective chill where the record shows no concrete enforcement threat, including the government's stated non-enforcement posture toward houses of worship communicating in good faith through customary channels in connection with religious services. Because the Respondent cannot show a credible threat of enforcement or any present legal consequence, Article III jurisdiction is absent.

Even if Respondent could satisfy Article III, Congress has withdrawn jurisdiction over suits seeking to restrain the assessment or collection of taxes. Respondent seeks a permanent injunction that would prevent the application of tax consequences tied to compliance with the tax-exempt regime. That is precisely the sort of pre-enforcement interference the statute forbids. Moreover, Congress has provided post-determination avenues of review for organizations that actually suffer an adverse tax-status decision, including administrative review, followed by potential federal-court review after exhaustion. Those mechanisms confirm that Respondent must await an adverse determination before seeking judicial relief, rather than litigating in anticipation of one. The limited exceptions to the jurisdictional bar do not apply on this record.

Second, even if the Court reaches the merits, Respondent's constitutional theory fails. The challenged provision operates on secular, neutral terms applicable to all organizations seeking the same tax-preferred status. It does not single out religion, favor one denomination, or require the government to evaluate religious doctrine. Instead, it conditions a tax benefit on objective criteria, thereby preserving administrable, evenhanded enforcement. The Constitution does not compel the government to subsidize political campaign intervention through the tax code. Churches remain

free to engage in political activity; they may simply not do so while simultaneously claiming the distinct tax advantages reserved for organizations that comply with the purposefully specified statutory conditions.

Accordingly, the judgment below should be reversed, and the injunction vacated. The Court should direct dismissal for lack of jurisdiction, and in any event, uphold the Johnson Amendment as constitutional.

ARGUMENT

I. RESPONDENT'S CLAIM IS NONJUSTICIABLE BECAUSE IT ALLEGES NO CONCRETE OR IMMINENT INJURY AND SEEKS TO RESTRAIN THE ASSESSMENT OR COLLECTION OF TAXES IN VIOLATION OF THE TAX ANTI-INJUNCTION ACT.

"Federal courts are courts of limited jurisdiction," and "[t]he party invoking federal jurisdiction bears the burden of establishing" that jurisdiction exists. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994); *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992). That limitation is fundamental because without jurisdiction, a court "cannot proceed at all in any cause." *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94 (1998) (quoting *Ex parte McCardle*, 74 U.S. (7 Wall.) 506, 514 (1869)).

Jurisdictional requirements are "inflexible and without exception" and must be satisfied before a federal court may address the merits of a dispute. *Id.* at 94-95 (quoting *Mansfield, C. & L. M. R. Co. v. Swan*, 111 U.S. 379, 382 (1884)). Federal courts may not assume "jurisdiction for the purpose of deciding the merits," even where the merits question appears straightforward. *Id.* at 93-94 (citing *United States v. Troescher*, 99 F.3d 933, 934, n.1 (9th Cir. 1996)). A federal court may not proceed to the merits in the absence of jurisdiction. *Id.* at 95.

Congress likewise possesses broad authority to define and limit the jurisdiction of the lower federal courts, because "the power not to create any lower federal courts at all includes the power to invest them with less than all of the judicial power." *Webster v. Doe*, 486 U.S. 592, 611 (1988) (citing *Sheldon v. Sill*, 49 U.S. (8 How.) 441, 449 (1850)). Where Congress has exercised that authority to limit the jurisdiction of lower federal courts, those limits are binding. *Ex parte McCardle*, 74 U.S. (7 Wall.) 506, 513-14 (1869). A federal court, therefore, must determine not only whether the plaintiff has satisfied the requirements of Article III, but also whether Congress has authorized the suit to proceed. *Steel Co.*, 523 U.S. at 94-95. In the absence of either constitutional or statutory jurisdiction, the court lacks authority to adjudicate the claim. *Id.*; *Webster*, 486 U.S. at 611-12.

Under these governing jurisdictional principles, this Court must resolve threshold defects before reaching the merits of Respondent's constitutional challenge. As explained below, Respondent fails to establish Article III standing. In addition, Congress has independently withdrawn jurisdiction over suits that seek to "restrain[] the assessment or collection of any tax," and Respondent's claim falls within that statutory bar. 26 U.S.C. § 7421(a). Because Respondent lacks Article III standing and the Tax Anti-Injunction Act bars its suit, this Court should reverse the judgment of the Fourteenth Circuit without reaching the merits of Respondent's Establishment Clause claim.

A. Respondent Lacks Article III Standing Because a Routine IRS Audit Does Not Create a Concrete or Imminent Injury.

To establish Article III standing, a plaintiff must establish three elements. First, the plaintiff must demonstrate it suffered "an 'injury in fact' – an invasion of a legally protected interest." *Lujan*, 504 U.S. at 560 (1992). Additionally, the injury in fact must be both "concrete and particularized," and "actual or imminent, not 'conjectural' or 'hypothetical.'" *Id.* (citing

Allen v. Wright, 468 U.S. 737, 751 (1984)). "Second, there must be a causal connection between the injury and the conduct complained of." *Id.* (quoting *Simon v. E. Ky. Welfare Rights Org.*, 426 U.S. 26, 41-42 (1976)). Finally, "it must be 'likely,' as opposed to merely 'speculative,' that the injury will be 'redressed by a favorable decision.'" *Id.* (quoting *Simon*, 426 U.S. at 38, 43). Even assuming elements two and three are met, the claim fails because element one is not satisfied.

Standing is not satisfied by "abstract injury in nonobservance of the Constitution," but instead requires "a judicially cognizable injury." *Allen*, 468 U.S. at 754 (quoting *Schlesinger v. Reservists Comm. to Stop the War*, 418 U.S. 208, 223, n. 13(1974)). When a plaintiff brings a pre-enforcement challenge, Article III requires a showing that the plaintiff faces a "credible threat of prosecution" or enforcement under the challenged law. *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158-58 (2014) (quoting *Babbitt v. Farm Workers*, 442 U.S. 289, 298 (1979)). Allegations of future injury must establish that the threatened harm is "certainly impending," rather than resting on "possible future injury." *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 409-10 (2013) (quoting *Whitmore v. Arkansas*, 495 U.S. 149, 158 (1990)).

This Court has rejected standing theories that rely on a "speculative chain of possibilities" dependent upon discretionary decisions by government officials. *Id.* (citing *Whitmore*, 495 U.S. at 157-60). A plaintiff may not "manufacture standing merely by inflicting harm on themselves based on their fears of hypothetical harm that is not certainly impending." *Id.* (citing *Pennsylvania v. New Jersey*, 426 U.S. 660, 664 (1976) (per curiam)).

A plaintiff's subjective fear or "[a]llegations of a subjective 'chill,'" without a concrete and imminent threat of enforcement, is insufficient to establish an injury in fact. *Laird v. Tatum*, 408 U.S. 1, 13-14 (1972) (quoting *United Pub. Workers v. Mitchell*, 330 U.S. 75, 89

(1947)). Article III does not permit courts to adjudicate claims that are not "of specific present objective harm or a threat of specific future harm," because "federal courts established pursuant to Article III of the Constitution do not render advisory opinions." *Id.* (quoting *United Pub. Workers*, 330 U.S. at 89).

Because Article III requires an actual controversy, courts cannot decide claims that depend on "contingent future events that may not occur as anticipated, or indeed may not occur at all." *Texas v. United States*, 523 U.S. 296, 300 (1998) (quoting *Thomas v. Union Carbide Agric. Prods. Co.*, 473 U.S. 568, 581 (1985)).

This Court should hold that Respondent lacks Article III standing for three reasons. First, the mere initiation of a routine IRS audit does not constitute a concrete or imminent injury, because it imposes no legal consequences and leaves Respondent's tax-exempt status unchanged. Second, Respondent faces no credible threat of enforcement of the Johnson Amendment because of the IRS's consent decree on non-enforcement against houses of worship. R. at 14. Third, this case is distinguishable from prior pre-enforcement challenges where plaintiffs faced active enforcement and a substantial likelihood of prosecution.

Pre-enforcement standing cannot be established through speculative fears of future government action that depend on uncertain or discretionary possibilities. *Clapper*, 568 U.S. at 409-14. In *Clapper*, the plaintiffs challenged a federal surveillance statute, alleging that their communications with foreign contacts might be intercepted in the future. *Id.* at 401-06. The plaintiffs had no evidence that surveillance had occurred or was imminent, but argued that there was an "objectively reasonable likelihood" their communications would eventually be monitored. *Id.* at 410. This Court rejected that theory of standing, explaining that the alleged injury rested on a "speculative chain of possibilities" that depended on multiple

discretionary decisions by the government and therefore the harm was not "certainly impending." *Id.* at 410-14. Because the plaintiffs' asserted harm was contingent on events that might not occur, this Court held that they failed to establish the injury in fact required for Article III standing. *Id.* at 414.

Respondent's alleged injury fails for the same reason the asserted injury in *Clapper* failed. *Id.* It rests on a speculative chain of future possibilities rather than a concrete or imminent harm. In *Clapper*, the plaintiffs lacked standing because their claim depended on the possibility that the government would choose to initiate surveillance, target their communications, and successfully intercept them. *Id.* at 410-14. Here, Respondent's injury similarly depends on a series of possibilities: that the IRS audit will uncover violations, that the IRS will choose to pursue enforcement of the Johnson Amendment, and that such enforcement will result in the revocation of Respondent's tax-exempt status. As in *Clapper*, these possibilities involve discretionary government decisions and may never occur. *Id.*

Additionally, just as the plaintiffs in *Clapper* could not establish standing based on an "objectively reasonable likelihood" of future surveillance, Respondent cannot establish standing based on the possibility that a routine audit might someday lead to adverse action. *Id.* at 410. At present, the audit imposes no legal consequences, does not alter Respondent's tax status, and does not subject Respondent to penalties or sanctions. R. at 6–7. Therefore, just as this Court found there was no Article III standing in *Clapper*, because Respondent's alleged injury is contingent on future events that may not occur, it is not "certainly impending," and this Court should find no Article III standing here. *Id.* at 409-14, 422.

Respondent also lacks Article III standing because it faces no credible threat that the IRS will enforce the Johnson Amendment against it. The IRS has entered into a consent decree

stating 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." R. at 14; *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).

That statement directly undermines any claim that enforcement is imminent. Under *Clapper*, a plaintiff cannot establish standing where the alleged injury depends on discretionary government action that may never occur. *Clapper*, 568 U.S. at 409-14. Here, even assuming the audit were to continue, the IRS's express non-enforcement position toward houses of worship makes the prospect of enforcement speculative rather than "certainly impending." *Id.* Because Respondent's asserted injury depends on the possibility that the IRS will reverse its stated position and pursue enforcement despite the consent decree, Respondent has failed to establish the imminent injury required for Article III standing. *Id.*

Respondent's alleged injury is also self-inflicted and therefore insufficient to establish standing. This Court has made clear that a plaintiff "cannot manufacture standing merely by inflicting harm on themselves based on fears of hypothetical future harm that is not certainly impending." *Id.* at 416 (citing *Pennsylvania v. New Jersey*, 426 U.S. 660, 664 (1976) (per curiam)). Here, any alleged restraint on Respondent's speech is not forced from government action, but from Respondent's voluntary choice to alter its conduct in anticipation of speculative enforcement that may never occur. Such self-imposed compliance does not constitute an injury in fact. Because Article III requires a concrete injury, Respondent's asserted chill on speech cannot confer standing. R. at 8.

Respondent may argue that it has standing according to the precedent set forth in *Susan B. Anthony List v. Driehaus*. 573 U.S. 149 (2014). However, in *Susan B. Anthony List*, the

plaintiffs already had complaints filed against them, the challenged statute directly prohibited their intended speech, and the state had a history of enforcement. *Id.* at 159-64. Those circumstances established a credible and imminent threat of prosecution sufficient to satisfy Article III standing. *Id.*

Here, by contrast, Respondent faces no comparable enforcement. The IRS has taken no enforcement action, initiated only a routine audit, and has expressly stated through a consent decree that it will not enforce the Johnson Amendment against houses of worship speaking through customary religious channels. R. at 6–7, 14. Unlike in *Susan B. Anthony List*, Respondent's alleged injury does not arise from ongoing or imminent enforcement, but instead depends on speculative possibilities of discretionary decisions that may never occur. *Susan B. Anthony List*, 573 U.S. at 159-64. Because the enforcement risk that supported Article III standing in *Susan B. Anthony List* is not present here, this Court should find there is no Article III standing in this case. *Id.*

Because Respondent has not suffered a concrete or imminent injury, it lacks Article III standing to bring this challenge. The initiation of a routine IRS audit, coupled with the absence of any credible threat of enforcement of the Johnson Amendment, does not present the type of actual controversy required for jurisdiction. This Court should therefore reverse the judgment of the Court of Appeals for the Fourteenth Circuit and dismiss Respondent's claims for lack of Article III standing.

B. Even If Respondent Had Article III Standing, the Tax Anti-Injunction Act Requires Dismissal of This Suit

The Tax Anti-Injunction Act ("TAIA") provides that "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). Congress enacted the TAIA to protect "the Government's need to assess and collect

taxes as expeditiously as possible with a minimum of pre-enforcement judicial interference." *Bob Jones Univ. v. Simon*, 416 U.S. 715, 737 (1974) (quoting *Enochs v. Williams Packing & Navigation Co.*, 370 U.S. 1, 7 (1962)). Consistent with that purpose, the TAIA ensures that "the legal right to the disputed sums be determined in a suit for refund," rather than through pre-enforcement injunctions. *Enochs*, 370 U.S. at 7.

This Court emphasized that the statutory language of the TAIA is to be given "almost literal effect." *Bob Jones Univ.*, 416 U.S. at 737. This Court clarified that it has made it "unmistakably clear that the constitutional nature of a taxpayer's claim, as distinct from its probability of success, is of no consequence under the Anti-Injunction Act." *Alexander v. "Ams. United"*, 416 U.S. 752, 759-60 (1974) (citing *Bailey v. George*, 259 U.S. 16 (1922)). Thus, the TAIA applies even where a plaintiff asserts constitutional challenges to the tax laws. *Id.* This Court rejected attempts to evade the TAIA because "a suit may not be entertained merely because collection would cause an irreparable injury, such as the ruination of a taxpayer's enterprise." *Enochs*, 370 U.S. at 6.

This Court has recognized only a narrow judicial exception to the TAIA's jurisdictional bar. *Id.* at 7. A pre-enforcement suit may proceed only if "it is clear that under no circumstances could the Government ultimately prevail" and if "equity jurisdiction otherwise exists." *Id.* This Court clarified that "the question of whether the Government has a chance of ultimately prevailing is to be determined on the basis of the information available to it at the time of suit." *Id.* Ultimately, "[u]nless both conditions are met, a suit for preventative injunctive relief must be dismissed." *Alexander*, 416 U.S. at 758.

This Court has recognized a limited statutory exception where "Congress has not provided the plaintiff with an alternative legal way to challenge the validity of a tax." *South Carolina v. Regan*, 465 U.S. 367, 373 (1984). However, that exception only applies when a plaintiff would

otherwise be left without "an alternative avenue for an aggrieved party to litigate its claims on its own behalf." *Id.* at 381.

Under these principles, Respondent's suit is barred by the TAIA. First, Respondent's requested relief would restrain the assessment or collection of a tax by preventing the IRS from enforcing conditions attached to § 501(c)(3) tax-exempt status. Second, Respondent cannot satisfy the narrow exception recognized in *Enochs v. Williams Packing & Navigation Co.*, because it is not "clear that under no circumstances could the Government ultimately prevail," nor does equity jurisdiction otherwise exist. *Enochs*, 370 U.S. at 7. Finally, the statutory exception recognized in *South Carolina v. Regan* does not apply, as Respondent has alternative avenues for judicial review. Therefore, even if Respondent had Article III standing, the TAIA independently requires dismissal of this suit.

Pre-enforcement challenges that seek to prevent the IRS from administering the tax laws are barred by the TAIA. *Bob Jones Univ.*, 416 U.S. at 736-49. In *Bob Jones University v. Simon*, the IRS notified the university that it no longer qualified for tax-exempt status under § 501(c)(3) because of its racially discriminatory policies. *Id.* at 735-36. Before the IRS formally revoked its exemption or assessed any tax, the university filed suit seeking to enjoin the IRS from withdrawing its tax-exempt status, arguing that the IRS's actions violated its constitutional rights. *Id.* at 736. This Court held that the suit was barred by the TAIA because its purpose was to restrain the assessment or collection of taxes. *Id.* at 736-42. As this Court explained, because the university sought to prevent the IRS from enforcing the tax laws before any tax was assessed or collected, this Court held that the TAIA required dismissal of the suit. *Id.* at 749.

Respondent's suit seeks the same type of pre-enforcement relief that this Court held impermissible in *Bob Jones University*. *Id.* Like the university in that case, Respondent asks the

Court to prevent the IRS from enforcing conditions attached to § 501(c)(3) tax-exempt status before any tax has been assessed or collected. *Id.* at 736-37. In *Bob Jones University*, this Court held that such relief fell within the TAIA because it would interfere with the IRS's administration of the tax laws prior to enforcement. *Id.* Here, Respondent likewise seeks to restrain the IRS from applying the tax code by enjoining enforcement of the Johnson Amendment as a condition of tax-exempt status. R. at 5–6.

Nor can Respondent avoid the TAIA by framing its claim as a constitutional issue. In *Bob Jones University*, the university similarly asserted constitutional objections to the IRS's enforcement. *Bob Jones Univ.*, 416 U.S. at 736-37. But this Court rejected those claims, explaining that such claims must still proceed through post-enforcement remedies. *Id.* at 749-50. Because Respondent's requested injunction would prevent the IRS from enforcing tax laws before taxes have been assessed or collected, the purpose and effect of the suit should be barred by the TAIA. Therefore, just as in *Bob Jones University*, the TAIA requires dismissal of Respondent's suit. *Id.*

i. Respondent Cannot Meet the Narrow Exception Required for Pre-Enforcement Relief Under the Tax Anti-Injunction Act.

Respondent cannot satisfy the standard required for pre-enforcement relief under the TAIA as established in *Enochs*. 370 U.S. at 7. As this Court held in *Enochs*, such relief is available "only if it is clear that under no circumstances could the Government ultimately prevail" and "if equity jurisdiction otherwise exists." *Id.* Respondent cannot meet either requirement.

First, it is not clear that there are no circumstances in which the government can prevail. The Johnson Amendment is a longstanding condition on § 501(c)(3) tax-exempt status, and this Court has recognized Congress's authority to define and enforce conditions attached to tax exemptions. *Bob Jones Univ.*, 416 U.S. at 736-37. There is a genuine argument that the government

could prevail because the IRS initiated only a routine audit, entered a consent decree, and took no enforcement action. R. at 6–7, 14.

Nor does equity jurisdiction justify pre-enforcement relief. Respondent's preference for pre-enforcement review cannot override Congress's framework for tax disputes. *Enochs*, 370 U.S. at 7. Because Respondent cannot satisfy the conditions required for pre-enforcement relief, the TAIA bars this suit.

ii. Because Respondent Has Alternative Avenues for Judicial Review, the Tax Anti-Injunction Act Bars This Suit.

Respondent also cannot rely on the exception from *South Carolina v. Regan*. 465 U.S. at 381. That exception only applies where Congress has provided no alternative remedy for plaintiffs. *Id.* Those circumstances are not present in this case.

Unlike the plaintiff in *Regan*, Respondent has alternate avenues for judicial review of its claims. *Id.* If the IRS were to take enforcement action affecting Respondent's tax-exempt status, Respondent could pursue post-enforcement remedies through the statutory avenues Congress has provided for tax disputes. *See*, *e.g.*, *Bob Jones Univ.*, 416 U.S. at 736-37. The availability of such review is enough to bar the application of the *Regan* exception. *Regan*, 465 U.S. at 381.

Nor does Respondent wanting an immediate, pre-enforcement review bring this case within *Regan*'s narrow holding. *Id.* This Court, in *Regan*, emphasized that its decision rested on the absence of any meaningful opportunity for the plaintiff to challenge the tax, not on a preference for earlier or more convenient review. *Id.* at 378-81. Where, as here, Congress has provided alternative avenues for judicial review, even if those avenues are after enforcement, the TAIA continues to bar pre-enforcement suits. *Id.* at 381; *Alexander*, 416 U.S. at 758-60.

Because Respondent is not deprived of all means to challenge the tax laws, *Regan* does not apply, and the TAIA requires dismissal of the suit. *Regan*, 465 U.S. at 381.

Additionally, Respondent has an alternative remedy to bring this suit under § 7428 of the Internal Revenue Code in federal court. Here, Respondent is challenging the process by which the IRS will determine its § 501(c)(3) tax status for its actions that violated the Johnson Amendment. However, the process must first involve filing an appeal after an adverse tax classification is ruled, during which the status is revoked. In contrast, Respondent seeks to prevent their § 501(c)(3) status from being revoked before a determination is made. Section 7428 of the Internal Revenue Code allows an organization to challenge a § 501(c)(3) status determination in federal court, but only after a determination has been made, making this the more suitable remedy. 26 U.S.C. § 7428.

Respondent's suit seeks to restrain the assessment and collection of a tax and falls within the jurisdictional bar imposed by the TAIA. Respondent cannot satisfy the conditions required for pre-enforcement relief, nor can it show that it is deprived of an alternate avenue for judicial review. Therefore, the narrow judicial and statutory exceptions to the TAIA do not apply. Accordingly, even if Respondent had Article III standing, the TAIA requires dismissal of this suit. This Court should reverse the Court of Appeals for the Fourteenth Circuit and remand with instructions to dismiss the complaint for lack of jurisdiction.

II. EVEN IF RESPONDENT COULD ESTABLISH STANDING, THE JOHNSON AMENDMENT IS CONSTITUTIONAL UNDER THE ESTABLISHMENT CLAUSE BECAUSE IT APPLIES NEUTRALLY, AVOIDS ENTANGLEMENT, AND THE CONSTITUTION DOES NOT REQUIRE THE GOVERNMENT TO SUBSIDIZE POLITICAL CAMPAIGN INTERVENTION.

The Establishment Clause does not require courts to "define the precise boundary" of permissible governmental action, "where history shows that the specific practice is permitted." *Town of Greece v. Galloway*, 572 U.S. 565, 577 (2014). Instead, "any test the Court adopts "must acknowledge a practice that was accepted by the Framers and has

withstood the critical scrutiny of time and political change." *Id.* (citing *County of Allegheny v. ACLU*, 492 U.S. 573, 670 (1989) (opinion of Kennedy, J.)).

Consistent with that understanding, this Court has made clear that the Establishment Clause analysis must be grounded in "historical practices and understandings," and not "some 'exception' within the Court's Establishment Clause jurisprudence." *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 535-36 (2022) (quoting *Town of Greece*, 572 U.S. at 575-76).

Accordingly, this Court has expressly "abandoned *Lemon*[1] and its endorsement test offshoot," explaining that those frameworks no longer govern Establishment Clause cases. *Id.* at 534-35 (citing *Am. Legion v. Am. Humanist Ass'n*, 588 U.S. 29, 33-34 (2019)).

Although it was in the Free Exercise context, this Court has recognized that "if prohibiting the exercise of religion . . . is not the object of the tax but merely the incidental effect of a generally applicable and otherwise valid provision, the First Amendment has not been offended." *Emp. Div. v. Smith*, 494 U.S. 872, 885 (1990) (citing *Citizen Publ'g Co. v. United States*, 394 U.S. 131, 139 (1969)).

Under this Court's Establishment Clause framework, Respondent's challenge fails for multiple reasons. As explained below, the Johnson Amendment is a neutral and generally applicable condition on tax-exempt status that does not classify or prefer religions. The statute also avoids advancing or entangling religion by drawing a clear, manageable line that limits governmental involvement in religious affairs. Finally, the Constitution does not require the government to subsidize political campaign intervention by religious organizations, even

[1] Under the "*Lemon*" test, courts assessed Establishment Clause challenges using a three-part framework examining purpose, effect, and entanglement. *Lemon v. Kurtzman*, 403 U.S. 602, 612-13 (1971) (citing *Bd. of Educ. v. Allen*, 392 U.S. 236, 243 (1968)).

where the activity is religiously motivated. Because the Johnson Amendment fits within these constitutional boundaries, the judgment of the Fourteenth Circuit should be reversed.

A. The Johnson Amendment Is a Neutral, Generally Applicable Condition on a Tax Subsidy.

The Johnson Amendment conditions eligibility for tax-exempt status under 26 U.S.C. § 501 on an organization's agreement not to "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." 26 U.S.C. § 501(c)(3). This section applies equally to religious and secular organizations that seek tax-exempt status. *Id.*

This Court has explained that under the Establishment Clause, laws cannot "aid one religion" or "prefer one religion over another." *Larson v. Valente*, 456 U.S. 228, 246 (1982) (quoting *Everson v. Bd. of Educ.*, 330 U.S. 1, 15 (1947)). However, "the Establishment Clause does not ban federal or state regulation of conduct whose reason or effect merely happens to coincide or harmonize with the tenets of some or all religions." *McGowan v. Maryland*, 366 U.S. 420, 442 (1961).

Consistent with that principle, this Court has upheld tax provisions where the statutory framework does not differentiate among religious denominations, by making no "explicit and deliberate distinctions between different religious organizations" and being "neutral in both design and purpose." *Hernandez v. Comm'r*, 490 U.S. 680, 695-96 (1989) (quoting *Larson*, 456 U.S. at 246-47 n. 23).

This Court has also recognized tax-exempt status as a matter of legislative determination and held that Congress can define and limit eligibility for tax-exempt status by imposing conditions that apply to all organizations seeking the benefit. *Bob Jones Univ. v. United States*, 461 U.S. 574, 596-598 n.32 (1983).

Under these Establishment Clause principles, neutral and generally applicable conditions on tax-exempt status, such as the Johnson Amendment, fall within constitutional bounds.

Neutral, generally applicable tax frameworks that include religious organizations do not violate the Establishment Clause. *Walz v. Tax Com. of N.Y.*, 397 U.S. 664, 672-74 (1970). In *Walz*, the plaintiff challenged New York's property tax exemption for real property used exclusively for religious, educational, or charitable purposes, arguing that the exemption was unconstitutionally establishing religion. *Id.* at 666-68. The exemption applied as part of a broad statutory framework that extended tax relief to a wide range of nonprofit organizations, both religious and secular. *Id.* at 672-73. This Court upheld the exemption, explaining that inclusion of religious organizations within the neutral tax framework did not amount to sponsorship or preference, and instead reflected permissible legislative action that "play[ed] within the joints" of the Establishment Clause. *Id.* at 669-74.

The Johnson Amendment is likewise constitutional because, like the tax exemption upheld in *Walz*, it operates as a neutral condition within a broader tax framework that applies equally to religious and secular organizations. The IRS conditions § 501(c)(3) status on compliance with several limitations unrelated to religious belief. 26 U.S.C. § 501(c)(3). Religious organizations are neither singled out nor treated differently under this provision; they are subject to the same eligibility criteria as all other charitable, educational, and nonprofit entities seeking tax-exempt status. *Id.*

As in *Walz*, where New York extended tax benefits across a broad class of nonprofit organizations, Congress here has defined the scope of a tax exemption through neutral, categorical criteria. *Walz*, 397 U.S. at 672-73. And just as the inclusion of religious

organizations within New York's tax exemption framework did not constitute unconstitutional establishment of religion, Congress's decision to withhold tax-exempt status from organizations that engage in political campaign intervention is constitutional. *Id.* at 669-74. Therefore, just as this Court found the New York tax exemption to be permissible "play within the joints" of the Establishment Clause, the Johnson Amendment should likewise be held constitutional. *Id.*

Respondent may argue that the Johnson Amendment violates the Establishment Clause by conditioning a tax benefit in a manner that disfavors religious organizations, relying on *Texas Monthly, Inc. v. Bullock*. 489 U.S. 1 (1989). However, *Texas Monthly* turned on a statute that "single[d] out religious" activity for a tax exemption unavailable to nonreligious organizations. *Texas Monthly, Inc.*, 489 U.S. at 14-15 n. 5 (1989) (citing *Walz*, 397 U.S. at 664). Here, by contrast, the Johnson Amendment does not single out religion at all. 26 U.S.C. § 501(c)(3). It applies uniformly to every organization seeking tax-exempt status under § 501(c)(3), religious and secular alike. *Id.* Because the Johnson Amendment operates as part of a neutral tax framework and does not confer a benefit or impose a burden based on religious status, the concern that invalidated the statute in *Texas Monthly* is not present here.

Just because some religious doctrines compel political engagement while others do not does not transform the Johnson Amendment from a facially neutral tax condition into a denominational preference. The Establishment Clause does not require the government to tailor neutral and generally applicable laws to the obligations of particular faiths.

The Johnson Amendment is constitutional under the Establishment Clause because it operates as a neutral, generally applicable condition on tax-exempt status. The statute applies

uniformly to religious and secular organizations alike. This Court should therefore reverse the judgment below and lift the injunction prohibiting its enforcement.

B. The Johnson Amendment Minimizes, Rather Than Creates, Government Entanglement with Religion

The Establishment Clause does not prohibit all interaction between the government and religion because, as this Court explained, "[n]o perfect or absolute separation is really possible; the very existence of the Religion Clauses is an involvement of sorts." *Walz*, 397 U.S. at 670.

In the context of generally applicable laws, this Court has explained that "routine regulatory interaction" with religious institutions, "which involves no inquiries into religious doctrine, no delegation of state power to a religious body, and no 'detailed monitoring and close administrative contact' between secular and religious bodies, does not itself violate the nonentanglement command." *Hernandez*, 490 U.S. at 696-97 (quoting *Aguilar v. Felton*, 473 U.S. 402, 414 (1985)).

This Court cautioned that "[t]he tax system could not function if denominations were allowed to challenge the tax system." *United States v. Lee*, 455 U.S. 252, 260 (1982) (citing *Lull v. Comm'r*, 602 F.2d 1166 (4th Cir. 1979)). As this Court further clarified, "[b]ecause the broad public interest in maintaining a sound tax system is of such a high order, religious belief in conflict with the payment of taxes affords no basis for resisting the tax." *Id.* This Court acknowledged the constitutional challenges to Congress and the courts, but expressed that "every person cannot be shielded from all the burdens incident to exercising every aspect of the right to practice religious beliefs." *Id.* at 261.

Additionally, this Court warned that "[a]t some point, accommodation may devolve into 'an unlawful fostering of religion.'" *Cutter v. Wilkinson*, 544 U.S. 709, 714 (2005) (quoting *Corp. of Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints v. Amos*, 483 U.S. 327, 334-

35 (1987)). This Court further instructed that "courts must take adequate account of the burdens a requested accommodation may impose on nonbeneficiaries," *Id.* at 720 (citing *Estate of Thornton v. Caldor, Inc.*, 472 U.S. 703 (1985)).

Under these principles, the Johnson Amendment does not create excessive entanglement between church and state. The Johnson Amendment minimizes governmental involvement in religious affairs by drawing a bright line that requires no inquiry into religious doctrine. Exempting a religious organization from the rule would increase, rather than reduce, entanglement by requiring the government to define and monitor religious political activity and by imposing burdens on third parties and the tax system as a whole.

Neutral administration of generally applicable tax laws that include religious organizations does not create excessive entanglement under the Establishment Clause. *Hernandez*, 490 U.S. at 696-97. In *Hernandez v. Commissioner*, the plaintiffs challenged the IRS's denial of a charitable tax deduction for payments made to the Church of Scientology in exchange for religious services, arguing that enforcement of the tax laws impermissibly entangled the government with religion. *Id.* at 683-87. The challenged provisions applied uniformly to all taxpayers and required the IRS to determine only whether payments constituted deductible contributions or nondeductible quid pro quo exchanges. *Id.* at 689-91. This Court rejected the entanglement argument, explaining that enforcement of the tax laws involved only "routine regulatory interaction" with religious organizations and did not require intrusive inquiry into religious doctrine or belief. *Id.* at 696-97.

The Johnson Amendment similarly avoids excessive entanglement because, like the tax provisions upheld in *Hernandez*, it is enforced through neutral, generally applicable criteria that require no inquiry into religious doctrine. *Id.* Here, enforcement of the Johnson Amendment involves even less governmental involvement than the tax laws upheld in *Hernandez*. *Id.* The

application of the Johnson Amendment does not require the IRS to evaluate religious doctrine, assess the content of religious belief, or determine the religious significance of speech. Instead, the inquiry is based solely on objective political activity, whether an organization has intervened in a political campaign, and not on theological content, religious motivation, or spiritual meaning of the speech.

As in *Hernandez*, where the Court upheld uniform enforcement of the tax laws despite incidental interaction with religious organizations, the Johnson Amendment operates through neutral enforcement that avoids "detailed monitoring and close administrative contact." *Id.* Because the Johnson Amendment requires less discretion and less ongoing oversight than the tax laws upheld in *Hernandez*, this Court should likewise uphold the Johnson Amendment. *Id.*

Respondent may argue that exempting religious organizations from the Johnson Amendment is necessary to avoid entanglement between church and state. That argument mirrors the position rejected in *United States v. Lee*, where this Court declined to recognize a religious exemption from generally applicable tax obligations. 455 U.S. at 260. In *Lee*, an employer sought an exemption from Social Security taxes on religious grounds, but this Court rejected it, emphasizing the consequences of carving out religious exceptions from the tax system. *Id.* at 260-61. This Court explained that granting such exemptions would undermine the administration of tax laws and shift the burden to others. *Id.*

Here, as in *Lee*, Respondents seek a religious exemption from a neutral tax condition. *Id.* And as in *Lee*, granting that exemption would not reduce constitutional concerns, but would require the government to treat religious organizations differently from similarly situated secular entities and administer a separate set of laws. *Id.* Because this Court rejected that approach in *Lee*, this Court should do the same here. *Id.*

Because the Johnson Amendment is administered through neutral, generally applicable criteria and does not require intrusive oversight of religious activity, it does not create excessive entanglement under the Establishment Clause. This Court should therefore reverse the judgment below and lift the injunction prohibiting its enforcement.

C. The Constitution Does Not Require the Government to Subsidize Political Campaign Intervention

When Congress conditions tax-exempt status, it "has not infringed any First Amendment rights or regulated any First Amendment activity," but instead has "simply chosen not to pay for [certain] lobbying." *Regan v. Tax'n with Representation*, 461 U.S. 540, 546 (1983) (citing *Cammarano v. United States*, 358 U.S. 498, 515 (1959) (Douglas, J., concurring)). As this Court further clarified, "a legislature's decision not to subsidize the exercise of a fundamental right does not infringe the right." *Id.* at 549.

This Court has also emphasized that the government does not violate the Constitution when "it has merely chosen to fund one activity to the exclusion of the other." *Rust v. Sullivan*, 500 U.S. 173, 193 (1991). Additionally, Congress "may attach conditions on the receipt of federal funds," so long as participation in the program remains voluntary. *South Dakota v. Dole*, 483 U.S. 203, 206-07 (1987) (quoting *Fullilove v. Klutznick*, 448 U.S. 448, 474 (1980) (opinion of Burger, C.J.)).

Under these principles, the Johnson Amendment does not violate the Establishment Clause by withholding tax-exempt status from organizations that engage in political campaign intervention. The Johnson Amendment reflects Congress's permissible decision not to subsidize

certain activity through the tax code, while leaving organizations free to engage in activity outside of the § 501(c)(3) framework.[2]

Congress's decision to condition tax-exempt status on limitations governing political activity does not violate the Constitution because the denial of a tax subsidy does not infringe protected rights. *Regan*, 461 U.S. at 546-49. In *Regan v. Taxation with Representation*, the plaintiff organization challenged restrictions on lobbying imposed as a condition of tax-exempt status, arguing that the limitation violated the First Amendment. *Id.* at 542-45. The statute permitted organizations to engage in lobbying through separate affiliates, but denied tax-deductible contributions for lobbying activities conducted by § 501(c)(3) entities. *Id.* at 543-44. This Court rejected the constitutional challenge, explaining that Congress had not regulated or infringed protected speech, but instead declined to subsidize lobbying through the tax code. *Id.* at 545-49. This Court further clarified that the denial of a tax subsidy did not infringe a constitutional right. *Id.*

Like the lobbying restriction upheld in *Regan*, the Johnson Amendment does not prohibit or regulate political speech. *Id.* Instead, it conditions eligibility for a tax subsidy on compliance with the statute. Organizations remain free to engage in political campaign intervention, but they may not do so while receiving the benefits of § 501(c)(3) tax-exempt status. Nothing in the Johnson Amendment restricts religious belief or expression. The statute applies to all organizations seeking tax-exempt status and leaves religious organizations free to speak, endorse candidates, or engage in political advocacy through other means. *See id.* at 544-46. Therefore, just as this Court upheld

[2] Lower courts have rejected Establishment Clause challenges to the Johnson Amendment, holding that conditioning § 501(c)(3) tax-exempt status on refraining from political campaign intervention is constitutionally permissible. *See Branch Ministries v. Rossotti*, 211 F.3d 137, 143-44 (D.C. Cir. 2000). The court reasoned that it is a neutral limitation on a government subsidy rather than a penalty on religious exercise. *Id.*

the lobbying restriction in *Regan*, the Johnson Amendment should be upheld as constitutional. *Id.* at 550-51.

Respondent may argue that the Johnson Amendment imposes an unconstitutional condition by forcing organizations not to engage in protected political speech in order to retain tax-exempt status. This Court rejected that theory in *Regan*, where it explained that Congress did not penalize speech, but instead declined to subsidize it through the tax code. *Id.* at 545-49. Unlike cases in which the government compels speech or conditions a benefit on the adoption of a particular viewpoint, organizations here remain free to engage in political campaign activity outside of the § 501(c)(3) framework. Because the Johnson Amendment merely defines the scope of a government subsidy rather than imposing a penalty for protected expression, Respondent's argument fails.

The Johnson Amendment reflects Congress's permissible decision not to subsidize political campaign intervention through the tax code. Because organizations remain free to engage in political activity outside of the § 501(c)(3) framework, the Johnson Amendment does not violate the Establishment Clause and should be upheld.

CONCLUSION

For the above-stated reasons, this Court should reverse the judgment of the United States Court of Appeals for the Fourteenth Circuit. Respondent lacks Article III standing to bring this suit, and Congress has withdrawn federal court jurisdiction over Respondent's claim through the Tax Anti-Injunction Act. Because Respondent's challenge is nonjusticiable, the judgment below should be reversed, and the complaint should be dismissed for lack of jurisdiction.

Even if this Court were to reach the merits, the Johnson Amendment is constitutional under the Establishment Clause. The Johnson Amendment is a neutral and generally applicable condition on tax-exempt status, avoids excessive entanglement between church and state, and reflects

Congress's permissible decision not to subsidize political campaign intervention through the tax code. Accordingly, this Court should reverse the judgment of the Fourteenth Circuit and lift the injunction prohibiting enforcement of the Johnson Amendment.

Respectfully submitted this 18th day of January 2026.

/s/ *Team 9*
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