



Written by [Dave Bohon](#) on January 4, 2013

Atheist Group Sues to Stop Special Tax-Exempt Consideration for Churches

The Freedom From Religion Foundation (FFRF), the atheist group that has carved out a niche in the legal game by suing school districts and municipalities for supposedly violating the First Amendment, has turned its harassment on the Internal Revenue Service (IRS) for giving churches and religious organizations “preferential treatment” in filing for and maintaining their tax-exempt privileges.



On December 27 the atheist club, which claims to have some 19,000 “nonreligious” members nationwide, filed suit in a western Wisconsin U.S. District Court, complaining that while the IRS requires non-church tax-exempt groups like itself to file “detailed, intrusive, and expensive annual reports to maintain tax-exempt status ... such reports are not required for churches and certain other affiliated religious organizations.”

An aggrieved FFRF spokeswoman, Annie Laurie Gaylor, wondered: “Why should churches be exempt from basic financial reporting requirements? Equally important, why would churches not wish to be accountable?” Gaylor argued that being granted tax-exempt status from the IRS “is a great privilege, and in exchange for that privilege, all other groups must file a detailed report annually to the IRS and the public on how we spend donations.” Her assumption was that churches should enthusiastically do the same.”

The IRS’ Form 990 for non-profits requires a detailed accounting of a group’s revenue and expenses, including an explanation of how much is spent on programs, administration, and fundraising. In its lawsuit the FFRF complains that the IRS gives “preferential treatment” to churches while discriminating against groups like the FFRF “solely on the basis of religious criteria.” The atheist attack group asserts that this “results in obligations imposed on secular non-profits, including the plaintiffs, that are not imposed on churches.”

The FFRF said that it is asking the court to “find the church exemptions a violation of the Establishment Clause of the First Amendment, and the equal protection rights of the due process clause of the Fifth Amendment to the U.S. Constitution.” The group added that it is seeking “to enjoin the IRS from continuing to exempt churches and related organizations from the application and annual reporting required of all other non-profit organizations under §501(c)(3).”

The lawsuit is the third the FFRF has filed against the IRS over religious issues in a little more than a year. In November it filed a complaint charging that the tax bureaucracy had failed to crack down on churches and Christian organizations that were imposing their presence into the election process. The FFRF cited a [full-page ad](#) placed in several national newspapers by the Billy Graham Evangelistic Association encouraging Americans to vote in line with biblical principles.

The FFRF was also sore over the efforts of Catholic bishops to encourage their members to vote in line with a “Catholic conscience” and warning against supporting candidates who embrace abortion and



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same-sex marriage. In the run-up to the election, scores of priests and bishops addressed their flocks concerning the issues, including Green Bay, Wisconsin Bishop David L. Ricken; Peoria, Illinois Bishop Daniel R. Jenky; and Bishop Robert Morlino of Madison, Wisconsin — the three Catholic leaders specifically targeted by the FFRF.

Perhaps most galling to the FFRF, however, was the IRS' refusal to prosecute pastors who participated in the October 7, 2012 "[Pulpit Freedom Sunday](#)" campaign organized by the Alliance Defense Fund (ADF). For the past several years the ADF has encouraged pastors to take the first Sunday in October to preach sermons from their pulpits endorsing specific candidates, tape the sermons, and send them to the IRS. The goal, said ADF spokesman Erik Stanley, is to goad the IRS into prosecuting the pastors for violating the 1954 Johnson Amendment, which prohibits churches, Christian groups, and other tax-exempt organizations from officially endorsing candidates.

Stanley said that in the nearly 60 years since the tax rule was implemented, the IRS has almost never gone after a church or pastor who has violated the rule, out of concern that the rule would ultimately be struck down as unconstitutional by the Supreme Court. "They just prefer to put out these vague statements and regulations and enforce it through a system of intimidation," said Stanley. "Pastors are afraid to address anything political from the pulpit." He said the annual "Pulpit Freedom Sunday" amounted to a "head-on constitutional challenge" the ADF hopes will one day turn into a court victory for religious liberty.

In that lawsuit, which sounds curiously like the most recent one it filed, the FFRF complained that the IRS' non-enforcement of its own rules "constitutes preferential treatment to churches and religious organizations that is not provided to other tax-exempt organizations, including FFRF." The atheist group claimed that churches and religious non-profits "obtain a significant benefit as a result of being non-exempt [sic] from income taxation, while also being able to preferentially engage in electioneering, which is something secular tax-exempt organizations cannot do."

The FFRF cited an article on a [Bloomberg](#) news site quoting Russell Renwicks, an official with the IRS' Tax-Exempt and Government Entities division, as saying that the IRS had temporarily suspended tax audits of churches, even though it has supposedly been bombarded with complaints about churches violating IRS rules. Renwicks said that the IRS had decided to hold "any potential church audits in abeyance" until the IRS could review its rules and decide how to proceed with possible violations.

And in an open assault on clergy, in September 2011 the FFRF filed a lawsuit challenging the constitutionality of the IRS' "parish exemption" rule allowing ministers to deduct housing costs from their income taxes.

U.S. Representative Peter Mack, who authored the amendment in 1954, explained its purpose, saying that "in these times when we are being threatened by a godless and antireligious world movement, we should correct this discrimination against certain ministers of the gospel who are carrying on such a courageous fight against this foe. Certainly this is not too much to do for these people who are caring for our spiritual welfare."

The [Christian News Network](#) noted in an article on the FFRF's suits that a small contingent of churches in the United States have chosen not to claim tax-exempt status, arguing that to do so would put them under the thumb of the federal government. The Christian news site quoted Art Fisher of Reformed Bible Church in Central Islip, New York, one congregation that has refused tax-exempt status, as explaining that a church which "voluntarily initiates an application to the state for corporate status



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expects 'limited liability' and 'tax exemption.' It in turn owes to the state its right to exist and prosper. It is obvious that its legal status and that of its of its 'flock' has been drastically altered."

Noting that most churches in the United States have chosen the tax-exempt route, Fisher asked: "Why would the churches elect to place themselves under such jurisdiction — to find regulation under governmental franchise preferable to their own Divine law? Are they not in fact serving two masters?"



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