



Tax Exemption for Churches: An American Value, a Social Imperative

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Some Americans seem to think that churches¹ are merely large buildings that, after about noon on Sunday, lock their doors and occupy space for the balance of the week.

This misperception could prove quite costly in the wake of the Supreme Court's finding of a constitutional "right" to same-sex marriage. Already, [some are calling for the ending of tax exempt status](#) for churches, religious-affiliated schools of all kinds, and non-profits in general if they do not actively make accommodations for same-sex partners.

Not only would this loss be an act of political aggression against religious entities, but it would adversely affect untold millions of lives by shrinking countless church ministries to those with profound and urgent needs.

What Tax Exemption for Churches Is Not

The [Internal Revenue Service has provided a useful history](#) of federal tax exemption policy regarding religious charities, including churches, on its website. Of note is that as early as 1894, legislation enacted to impose a two-percent corporate income tax contained language affirming that:

... 'nothing herein contained shall apply to ... corporations, companies, or associations organized and conducted solely for charitable, religious, or educational purposes, including fraternal beneficiary associations.' Though the law was declared unconstitutional by the Supreme Court in 1895, the exemption language contained in the act would provide the cornerstone for tax legislation involving charitable organizations for the next century.

Put simply, tax exempt status for churches is a historic, even intrinsic, part of the federal tax system.

Contrary to an argument made frequently by liberal critics of the church tax exemption, the exemption is neither sponsorship of religion nor a subsidy for churches. In *Walz v. Tax Commission of the City of New York* (1970), Chief Justice Warren Burger wrote that "the grant of a tax exemption is not sponsorship since the government does not transfer part of its revenue to churches but simply abstains from demanding that the church support the state."

Walz was a cornerstone case regarding tax exempt status for religious institutions. Describing the reasoning of the case, [Georgetown University's Berkeley Center for Religion, Peace, and World Affairs](#) summarizes:

... (*Walz* said that) the purpose of the exemptions was not to advance or inhibit religion;

the exemptions were available to a broad class of institutions the state found desirable, including hospitals, libraries, playgrounds, scientific, professional, historical, and patriotic groups. After examining the long history in the United States of exempting religious institutions from taxation, the Court determined that the exemption has not resulted in the excessive entanglement of religion and the government. In fact, the Court found, taxing religious property could increase government entanglement by giving rise to tax valuation of church property, tax liens, and tax foreclosures. Further, demanding that religious institutions support the government by paying taxes would also create entanglement.

[As seminary president Albert Mohler explains](#) with respect to the subsidy argument, a “subsidy would be the transfer of tax money to institutions. That’s not what’s going on here.... Rather, the tax exemption is granted with respect to institutions the government does not feel that it has the right to tax on the one hand and on the other hand, institutions that it believes are essential to the Commonwealth and to the commonweal, to the well-functioning of society.”

Commentator [Joe Carter](#) also notes that “(a) subsidy is a direct pecuniary aid furnished by a government to a private industrial undertaking, a charity organization, etc. ... as the Supreme Court noted in *Walz* ... ‘for the men who wrote the Religion Clauses of the First Amendment the ‘establishment’ of a religion connoted sponsorship, financial support, and active involvement of the sovereign in religious activity’.” None of that occurs when religious groups are left equally free and allowed to devote more resources to the common good.

The Purpose of the Exemption

Tax exemption for churches protects religious entities from the state. Giving government authority to tax religious entities not only breaches the protective wall of separation that guards the church from the state, but effectively knocks that wall down.

Religious values have long infused American public life and law, yet as institutions, church and state are distinct institutionally. Giving any government, whether federal, state, or local, the legal authority to tax property belonging to religious entities is only a first step toward making churches institutionally subservient to that government. This is a dramatic departure from the very foundation of our country, one informed by the belief that religious liberty is pre-governmental and removed from the management of the state.

In addition to its protective role, tax exemption for churches brings great and often ignored benefit to society. To tax churches would be to diminish that benefit so substantially as to cripple it, thus adversely affecting the common good of innumerable communities and, in aggregate, the nation.

[Erik Stanley of the Alliance Defending Freedom](#) suggests three ways in which tax exemptions for churches provide inestimable social benefit:

First, there is the “social benefit” theory of tax exemption. This recognizes the fact that churches provide great benefits to society by their good works. Churches minister to the poor and needy in the community, provide numerous social services for the downtrodden among us, and reach out to the “least of these” in thousands of different ways. The social benefit theory justifies tax

exemption for churches as a kind of bargain – churches provide needed services, so they are entitled to tax exemption ...

(Second) ... is what I have termed the “intangible benefit” theory of tax exemption. This highlights the intangible and often unseen benefits provided by churches to the community. Things like reduced crime rates resulting from transformed lives, suicides prevented when people surrender to Christ, and people with destructive behavioral patterns that harm the community changing into hard-working and virtuous citizens who contribute to the well-being of the community. It is difficult to put a price tag on these types of intangible benefits provided by churches, but there is no question they exist.

(Third) ... there is also a constitutional reason why churches are tax exempt. Our history is one of an unbroken practice of exempting churches from taxation. Churches were exempt from the very first time the tax code was passed at the federal level, and have remained exempt in every iteration of the tax code ever since. Every state in America also exempts churches from property taxes. When the U.S. Supreme Court decided a case regarding the property tax exemption of churches, called *Walz v. Tax Commission*, it stated that providing a tax exemption for churches was a less intrusive option under the Constitution than requiring churches to pay taxes.

There is a final reason why churches are not taxed: As noted above, by providing both immediate practical benefits to their communities and intangible benefits related to healthy families and a more civil society, the church relieves government of a significant part of its public duties. Yet there are those who would like that relief voided for the sake of government usurping, much more actively, the social ministries of the churches.

An Ideological Agenda

First, it is particularly noteworthy that according to [the congressional Joint Committee on Taxation](#), eliminating tax exemption for nonprofit organizations would amount to a tax on speech. The Joint Committee says explicitly, “With respect to other nonprofit organizations, such as charities, tax-exempt status is not classified as a tax expenditure because the nonbusiness activities of such organizations generally must predominate and their unrelated business activities are subject to tax” (JCY-97-14 p. 9). As such, subjecting churches to taxation would be the opposite of a tax expenditure and would be, instead, a tax penalty for creating an organization to be a church. In other words, a tax on free assembly, free religion, and free speech. This would be, in essence, a “Bill of Rights Tax.”

The public argument for ending tax exempt status ignores this federal policy completely and instead finds its gravamen in the idea that they don’t deserve such status: IRS rules about what constitutes a religion are ill-defined, churches should pay taxes like everyone else (which would add to government coffers – to the Left, always a good thing), and churches occupy space better used by revenue-creating businesses.

Mark Oppenheimer accedes to this point and even seems eager for the concentration of social services in the hands of the government:

Defenders of tax exemptions and deductions argue that if we got rid of them charitable giving would drop. It surely would, although how much, we can’t say. But of course government

revenue would go up, and that money could be used to, say, house the homeless and feed the hungry. We'd have fewer church soup kitchens — but countries that truly care about poverty don't rely on churches to run soup kitchens.

This is quite an admission: Oppenheimer's trust in the compassion and efficiency of the federal bureaucracy would be almost touching were it not so wrong-headed. State-run charity has been a colossal failure, increasing rates of poverty, corroding education, eviscerating families, encouraging massive intergenerational dependency.

And Oppenheimer's perception of church ministries is just plain wrong, too; they are about far more than his dismissive and uninformed assertion about "soup kitchens."

The demeaning character of these assertions is offensive in itself. But it is impossible not to wonder if the real reason for such antipathy to church tax exemptions is of a distinct character.

[Writing in *The Federalist*, Boyce College professor Denny Burk](#) asks if ending tax-exempt status for Christian churches is part of a different agenda altogether:

... the real intent of removing tax-exempt status is to cripple the institutions that continue their dissent from the sexual revolution. When tax exemptions are removed, donors will give far less than they are giving now. Churches will become liable to property taxes. That means that many churches will have to forfeit their property to the government because they won't be able to afford the taxes they have to pay on it. Many of them wouldn't be able to pay them now. If donations went down, they would be that much further from being able to pay them. As a result, churches that reside on valuable properties in urban locations would be immediately vulnerable. Eventually, so would everyone else.

The churches that stand, Daniel-like, in the throng that bows to radical sexual autonomy (which today finds its unmistakably clearest expression in insistent homosexual activism), are the most prominent targets of this effort. Not everyone who wants to end federal tax exemptions for churches does so out of enmity to orthodox teaching about human sexuality, but this is an undeniable element of the larger issue — undeniable and foundational, both.

As Frank Bruni, a columnist for the *New York Times* who identifies as homosexual, wrote in April:

(former Methodist minister Jimmy) Creech and Mitchell Gold, a prominent furniture maker and gay philanthropist, founded an advocacy group, Faith in America, which aims to mitigate the damage done to L.G.B.T. people by what it calls "religion-based bigotry." Gold told me that church leaders must be made "to take homosexuality off the sin list." His commandment is worthy — and warranted.

"Must be made" — one of the most chilling phrases written in American journalism in recent years. And, by the way, if they don't, Mr. Bruni — what do you recommend?

(For the record, as I've written elsewhere, followers of the Bible have no intention of giving-in, ever, no matter what the cost, financial or otherwise).

What Churches Do for Their Communities

Churches, whether liberal or conservative, confessional or heterodox, Protestant, Catholic, or Orthodox, are not empty boxes sitting idle except for a few hours a week. In addition to the many Bible studies, fellowship meetings, youth group events, and other spiritually-oriented ministries that stem directly from their role as centers for the study and proclamation of the book they believe transforms lives, they provide services of many types to people in all walks and stages of life regardless of religious belief. The financial value of these services has not been calculated, but no one can dispute it is profound and also relieves federal and state governments of duties that would cost them huge amounts of money.

An incomplete list includes ministries involving:

- Mental health
- Substance abuse
- Health care
- Auto replacement for needy families
- “Clothes closets”
- English language classes
- Assistance for military families
- Sexual abuse
- Pregnancy care
- Adoption and orphan care
- HIV/AIDS
- Pornography addiction
- Personal and family counseling
- Community sports leagues
- Single parents
- Strengthening marriages
- Persons with disabilities
- Meals and food services for needy populations
- Mentorship for students
- Employment workshops
- Premarital counseling
- Graduation and Baccalaureate services
- Fitness programs
- Indigent care
- Music concerts
- Housing
- Personal coaching and professional training for the homeless and persons in recovery
- Camps for inner city and other needy youth
- Disaster relief
- Community clean-up initiatives
- Legal aid
- Help for the sexually-trafficked and women and children affected by pornography or prostitution

- Literacy
- Prison ministry and re-entry
- Care for seniors
- Drama and art displays

Three Case Studies:

A few blocks from where I work in downtown Washington, [St. Anthony's Catholic Church hosts a food pantry called "St. Anthony's Bread."](#) The Pantry does not "judge or qualify the need; we are here simply to share whatever food we have with those who come to our Pantry door." It is this generous spirit that enabled the Pantry, in 2014, to serve more than 17,000 men, women, and children. (Memo to Mr. Oppenheimer: Some soup kitchen, eh?).

St. Anthony's does so much more: Substance abuse and career support ministries, divorce and grief support, and work with Habitat for Humanity, to name a few of the church's other programs.

Region-wide, the [Catholic Charities of the Archdiocese of Washington, D.C.](#) provides myriad services to thousands, including shelters, help for persons with disabilities, medical and dental clinics, employment assistance, and many more.

A few miles to the northeast of St. Anthony's is the [First Baptist Church of Glen Arden, Maryland](#). One of the ministries of this largely African-American "megachurch" is Shabach Ministries, which facilitates "early childhood development, academic achievement, and community activities" for the underserved living in surrounding areas.

[Shabach has an Emergency Employment Center](#), which "includes an emergency food pantry and clothing closet." The ministry also "offers a Youth and Adult Employment Readiness Program as well as free Web Page Design and a Summer Youth Employment Program." And in one recent year, the Emergency Employment Center "provided food and clothing to more than 3,400 adults and dispensed over 10,000 bags of groceries. By partnering with Prince George's County government agencies, 125 families were fed for Christmas, provided fully-cooked Christmas dinners to seniors and dispensed gift cards to sheltered women and families in need during the 2008 Christmas holiday."

But Shabach is only one of First Baptist's tremendous menu of community ministries. The Hagar Teen Pregnancy ministry works with young women needing love, counsel, and support during and after unplanned pregnancies. The Tamar Ministry provides help to women who have been sexually abused. Abraham's Promise "provides an effective network of support for families who are considering expanding their family through adoption or foster care. In addition, support is given to families experiencing infertility challenges, miscarriage and stillbirth."

Across the Potomac in Springfield, Virginia, little [Harvester Presbyterian Church](#) does not let its size impede its dedication to service. The church offers free "English as a Second Language" courses to anyone in the community. Its "mercy" ministries provide food baskets and "meals on wheels" to persons in need. And Harvester is a regional hub for homeschool families, who use the church's facilities to educate their children.

The anecdotes are virtually endless: In tens of thousands of churches and synagogues nationwide, countless ministries work to help not only their members but people in their communities in more ways than can readily be numbered.

Conclusion

If the church tax exemption is lost, religion will lose even more influence and reliance on the state will become more prevalent. Religion becomes ultimately a private, publically irrelevant force, as it was in the Soviet Union.

While God cannot be thwarted and his church will thrive even in secret, local communities around the nation will lose the benefits that churches have provided to them over the years if churches are forced out of public life. Countless Americans in need of help will be the ones who suffer.

Churches are essential to any society desiring both the amelioration of conflict and the gentle influence of voluntary charity. They do great good for many, and discourage the evil that so readily creeps onto culture's pathway if not suppressed with diligence. Keeping them tax exempt will strengthen their ability to do these things.

Writing in *Democracy in America*, Alexis de Tocqueville observes, "Freedom sees in religion the companion of its struggles and its triumphs, the cradle of its infancy, the divine source of its rights. It considers religion as the safeguard of mores; and mores as the guarantee of laws and the pledge of its own duration." ²

Dare we risk fraying such a lifeline to the very soul of our national character?

¹ Although this paper concerns itself with churches, the threat to other houses of worship (synagogues, mosques, temples, *et al*) is the same.

² *Democracy in America*, ed. Harvey Mansfield and Delba Winthrop. Chicago: University of Chicago Press, 2002, pp.43-44