



July 11, 2017

The Honorable Rodney P. Frelinghuysen  
Chairman  
House Committee on Appropriations  
H-305 Capitol Building  
Washington, D.C. 20515

The Honorable Nita M. Lowey  
Ranking Member  
House Committee on Appropriations  
2365 Rayburn House Office Building  
Washington, D.C. 20515

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Dear Chairman Frelinghuysen and Ranking Member Lowey:

The American Civil Liberties Union (ACLU) is strongly opposed to Section 116 in the FY 2018 Financial Services and General Government Appropriations bill. This provision is designed – in violation of the Constitution – to give religious organizations special tax benefits and privileges that are unavailable to other, non-religious 501(c)(3) organizations. Accordingly, we urge that this provision be removed from the bill.

The goal of Section 116 is to make it very difficult for the IRS to investigate claims that churches – but only churches – have violated the law by engaging in partisan political activity by requiring consent from the IRS Commissioner for each investigation and notification to the Ways and Means Committee in the House of Representatives and the Finance Committee in the Senate before such investigations can commence. The first requirement would significantly slow down, if not functionally halt, the pursuit of 501(c)(3) violations, while the second would only serve to further politicize these investigations.

In addition, while current law applies to all tax-exempt nonprofit organizations, Section 116 would only apply to churches. The Establishment Clause of the First Amendment to the U.S. Constitution was designed to prevent exactly this kind of religious favoritism.

While not outright repealing the Johnson Amendment, Section 116 would make it almost impossible to enforce with respect to churches. It is important to note,

however, that churches and religious leaders are already able to exercise their free speech – free from fear of sanction by the IRS – by speaking out on political and social issues. Church leaders are also completely free to support or endorse political candidates as private citizens. As an organization deeply committed since our founding nearly 100 years ago to protecting the free speech rights of all people, the ACLU would vigorously oppose any effort to chill the ability of houses of worship and religious leaders to speak out on what they see as the important issues of the day.

That does not mean, however, that religious organizations are entitled to receive special tax benefits and privileges that are unavailable to all other 501(c)(3) organizations. The ACLU strongly opposes Section 116 and urges its removal from the FY 2018 Financial Services and General Government Appropriations bill.

Please feel free to contact Ian Thompson, legislative representative, at (202) 715-0837 with any questions.

Sincerely,



**Faiz Shakir**  
National Political Director



**Ian Thompson**  
Legislative Representative

Cc: Members of the House Committee on Appropriations