

*“that I may open my mouth boldly..., as I ought to speak.”<sup>1</sup>*

**Ephesians 6:19-20**

## Q What is Pulpit Freedom Sunday?

**A** The Alliance Defending Freedom “Pulpit Freedom Sunday”<sup>2</sup> is a strategic litigation plan. Through tactical lawsuits against the Internal Revenue Service (IRS), Alliance Defending Freedom seeks to restore the right of each pastor to speak scriptural Truth from the pulpit about moral, social, and governmental issues — as well as other topics concerning his congregation — without fear of losing his church’s tax-exempt status.

We are seeking pastors and church leadership teams that will agree to stand up and speak out to restore fundamental freedom of speech and freedom of religion rights in America’s pulpits. Alliance Defending Freedom wants to generate test cases that we can carry to the U.S. Supreme Court in order to end the unconstitutional restrictions that now exist infringing on the rights of pastors to use moral and biblical standards to support or oppose candidates for public office.

## Q What kind of restriction does the IRS currently place on a pastor’s speech?

**A** Despite the fundamental freedom of speech and religion guaranteed to citizens and groups by the First Amendment to the U.S. Constitution, the IRS states that churches “are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office. The prohibition applies to all campaigns, including campaigns at the federal, state and local level.” The IRS has interpreted this to apply to a pastor’s sermon from the pulpit. The tax code purports to place candidates for government office beyond the reach of a pastor speaking from the pulpit.

<sup>1</sup> King James Version.

<sup>2</sup> Alliance Defending Freedom does not endorse or oppose political parties or candidates, nor does it urge allegiance to any political party or candidate. Alliance Defending Freedom does believe that churches and pastors have the freedom to plainly speak scriptural Truth about the qualifications of candidates for public office, regardless of the candidate’s political affiliation.

## FREQUENTLY ASKED QUESTIONS

### **Q** When did this restriction begin?

**A** This restriction began in 1954, when Lyndon B. Johnson, a senator from Texas at the time, proposed the restriction as an amendment to the § 501(c)(3) tax exemption for charitable organizations. Johnson did this to keep two nonprofit organizations in Texas from supporting his political opponent, but the amendment has also had the effect of restricting the right of pastors to speak freely from the pulpit.

### **Q** What are the potential benefits?

**A** Pulpit Freedom Sunday is designed to restore the right of pastors to speak freely from the pulpit without fear of censorship by the government or worrying about jeopardizing their church's tax-exempt status. Where a lawsuit is successful, all churches in that court's jurisdiction could once again speak out according to their faith about any and all issues addressed by Scripture. Through the courage of individual churches, freedoms of speech and religion will be restored to many more.

### **Q** How will churches be involved?

**A** Pastors and ministers who agree to be involved in Pulpit Freedom Sunday will preach a sermon on a specific day discussing the intersection of the political realm with scriptural Truth.

Visit [www.pulpitfreedom.org](http://www.pulpitfreedom.org) for more specific information.

### **Q** What commitment does Alliance Defending Freedom make to act on behalf of any church participating in Pulpit Freedom Sunday?

**A** Alliance Defending Freedom is actively seeking to represent churches or pastors who are under investigation by the IRS for violating the Johnson Amendment by preaching scriptural Truth in a way that expresses support for — or opposition to — political candidates. Alliance Defending Freedom represents all of its clients free of charge.

**Q What are the risks of violating the IRS restrictions on pastor speech?**

**A** The risks involved in violating the IRS restrictions on pastor speech from the pulpit will vary depending on the specific situation. Generally, the IRS can impose one of two penalties on churches. First, the IRS could levy an “excise” tax against the church. This is a tax imposed directly on the activity that violates the IRS restriction. An excise tax, though, would be difficult for the IRS to calculate and would probably not be very great in amount if applied to a pastor’s sermon (e.g. the amount of electricity for the time of the activity, assuming no direct funds were expended). Secondly, the IRS could threaten to revoke a church’s tax section 501 (C) (3) tax exemption for a period of time. Under the tax code, churches are automatically tax exempt, unless they are found to have violated section 501(c)(3). Alliance Defending Freedom believes that a church may only lose its tax exempt status for a very short time period, and even if a church’s tax exempt 501 (c) (3) letter is revoked, a church may once again be automatically considered tax exempt under the tax code if it agrees to abide by section 501(c)(3).

**Q Would a temporary loss of tax exempt status have a significant impact on our church?**

**A** Most likely, a temporary loss of tax exempt status would have very little impact on the church. Only “income” can be taxed by the IRS, but all donations to the church are “gifts,” which are not considered income under the tax code. Therefore, there may be no tax consequences for the church at all. Only church “income” from other non-gift-related sources, such as business-related income, is subject to federal income taxation. For most churches this would be a small amount — if any at all.

**Q Would a temporary loss of tax-exempt status have a significant impact on the taxes of our church members?**

**A** Only those church members who “itemize” their deductions (roughly 30 percent of church-goers nationwide) could be affected by the possible loss of tax exempt status. Those who take the “standard” deduction (roughly 70 percent of church-goers nationwide) would not be affected at all because they do not itemize their contributions to the church as deductions. There is an argument to be made that

# SPEAK UP.

PULPIT FREEDOM SUNDAY

Protect and Promote the Rights of Our Churches

## FREQUENTLY ASKED QUESTIONS

those who “itemize” may still consider their contributions tax deductible, as churches are automatically tax exempt under the Internal Revenue Code. For instance, if a church loses its tax-exempt status for the pastor speaking from the pulpit, there is an argument to be made that because the church is automatically exempt under section 508(c)(1) (A) of the Internal Revenue Code, the tax-exempt status is only lost for the day the sermon was preached, and any contributions made at other times would still be deductible. It is important to note that this argument has not been tested and taxpayers should seek professional advice before claiming any such deduction for itemization.

### **Q** Why hasn't the IRS responded to Pulpit Freedom Sunday to date?

**A** In 2008, Alliance Defending Freedom conducted the first Pulpit Freedom Sunday on September 28. Starting with 33 pastors from 22 states in 2008, Pulpit Freedom Sunday participation has grown steadily to a high of 1621 participants in 2012. There could be many reasons why the IRS has not responded to these pastors, including administrative delays, reshuffling of personnel following the 2008 presidential election, or a host of other reasons.

The IRS' response — or lack of response — should not be taken as substantive proof of anything. Alliance Defending Freedom remains committed to achieving the goals of Pulpit Freedom Sunday, no matter how long it takes.

### **Q** How does my church become a part of Pulpit Freedom Sunday?

**A** If you and your church are interested in participating in Pulpit Freedom Sunday, please go to [www.pulpitfreedom.org](http://www.pulpitfreedom.org) and sign up to participate, or you can call us at 1-800-835-5233.<sup>3</sup>

<sup>3</sup> IRS CIRCULAR 230 DISCLOSURE: Any tax advice contained in this communication was not written for the purpose of and is not intended to be used for the purpose of (i) avoiding penalties imposed by the Internal Revenue Code or (ii) promoting, marketing, or recommending any transaction or matter addressed herein. ministry, we do not charge a fee for our services.

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