DESCRIPTION OF H.R. 9722, THE “FAIR TREATMENT OF RELIGIOUS ORGANIZATIONS ACT OF 2026”

Scheduled for Markup
by the
HOUSE COMMITTEE ON WAYS AND MEANS
on July 22, 2026

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION

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INTRODUCTION

The House Committee on Ways and Means has scheduled a committee markup for July 22, 2026, of H.R. 9722, the "Fair Treatment of Religious Organizations Act of 2026." This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of the mark.

[1] This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 9722, the "Fair Treatment of Religious Organizations Act of 2026"* (JCX-38-26), July 20, 2026. This document can also be found on the Joint Committee on Taxation website at www.jct.gov. All section references in the document are to the Internal Revenue Code of 1986, as amended (the "Code"), unless otherwise stated.

A. Determination of Religious Purpose for Purposes of Tax-Exempt Status

Present Law

Tax exemption for certain organizations

Under present law, certain organizations are exempt from Federal income tax.[2] Such organizations include: (1) tax-exempt organizations described in section 501(c) (including among others section 501(c)(3) charitable organizations and section 501(c)(4) social welfare organizations); (2) religious and apostolic organizations described in section 501(d); and (3) trusts forming part of a pension, profit-sharing, or stock bonus plan of an employer described in section 401(a).

Tax exemption under section 501(c)(3)

Charitable organizations, that is, organizations described in section 501(c)(3), generally are exempt from Federal income tax and are eligible to receive tax deductible contributions. A charitable organization must be organized and operated exclusively in pursuance of one or more tax-exempt purposes constituting the basis of its tax exemption.[3] The Code specifies such purposes as religious, charitable, scientific, testing for public safety, literary, educational, fostering national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals.[4] In general, an organization is organized and operated for charitable purposes if it provides relief for the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening the burdens of government; and promotion of social welfare, among others.

Under the common law public policy doctrine, an organization is not organized or operated for exempt purposes if a purpose of the organization is against public policy or is illegal. In *Bob Jones University v. United States*, the Supreme Court upheld the IRS's application of the public policy doctrine to revoke the tax-exempt status of a private university on the basis of its racially discriminatory admissions and dating policies.[5] In the 2025-2026

[2] Sec. 501(a).

[3] Treas. Reg. sec. 1.501(c)(3)-1(c)(1).

[4] Treas. Reg. sec. 1.501(c)(3)-1(d)(2).

[5] *Bob Jones University v. United States*, 461 U.S. 574, 585 (1983) ("[T]o qualify for a tax exemption pursuant to [section] 501(c)(3), an institution must show, first, that it falls within one of the eight categories expressly set forth in that section, and second, that its activity is not contrary to settled public policy."). See also *Virginia Education Fund v. Commissioner*, 75 T.C. 743 (1985) (upholding IRS's revocation of a fund's tax-exempt status where the fund did not introduce evidence establishing that the private schools it contributed to had adopted, and operated in accordance with, racially nondiscriminatory admissions policies); Milan Ball, Congressional

Priority Guidance Plan, Treasury and the Internal Revenue Service ("IRS") included plans to issue "[g]uidance on the application of the fundamental public policy against racial discrimination, including consideration of recent caselaw, in determining the eligibility of private schools for recognition of tax-exempt status under section 501(c)(3)."[6]

In order to qualify as operating primarily for a purpose described in section 501(c)(3), an organization must satisfy the following operational requirements: (1) its net earnings may not inure to the benefit of any person in a position to influence the activities of the organization; (2) it must operate to provide a public benefit, not a private benefit;[7] (3) it may not be operated primarily to conduct an unrelated trade or business;[8] (4) it may not engage in substantial legislative lobbying; and (5) it may not participate or intervene in any political campaign.

Tax exemption under section 501(d)

Generally, under section 501(d), a religious or apostolic association or corporation is exempt from Federal income tax if the organization has a common or community treasury. The organization may engage in business for the common benefit of its members, but only if the members include in their gross income as a dividend their *pro rata* share of the organization's taxable income for the taxable year of the organization ending with or during the individual's taxable year, whether distributed or not.[9]

Description of Proposal

Under the proposal, for purposes of section 501, a religious belief or practice concerning marriage, sexuality, or gender identity is not treated as inconsistent with law or public policy. Furthermore, a belief does not fail to be treated as a religious belief for these purposes merely because the belief is not compelled by, or central to, a system of religion.

Effective Date

The proposal is effective for taxable years beginning after December 31, 2025.

Research Service, *The Public Policy Doctrine and 501(c)(3) Organizations* (Report IF12788), October 21, 2024, available at https://www.congress.gov/crs-product/IF12788.

[6] Department of the Treasury, *2025-2026 Priority Guidance Plan*, September 30, 2025, available at https://www.irs.gov/pub/irs-counsel/2025-2026-initial-pgp.pdf (last visited July 20, 2026).

[7] Treas. Reg. sec. 1.501(c)(3)-1(d)(1)(ii).

[8] Treas. Reg. sec. 1.501(c)(3)-1(e)(1). Conducting a certain level of unrelated trade or business activity will not jeopardize tax-exempt status.

[9] Sec. 501(d); Treas. Reg. sec. 1.501(d)-1(a).

B. Estimated Revenue Effects of the Proposal

The proposal is estimated to have no effect on Federal fiscal year budget receipts over the 2027-2036 budget window.