

# Insights

## Supreme Court Clarifies Religious Exemptions for Nonprofits

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In a significant victory for faith-based nonprofit organizations, the U.S. Supreme Court issued a unanimous 9–0 decision in *Catholic Charities Bureau, Inc. v. Wisconsin Labor & Industry Review Commission*,<sup>1</sup> holding that the State of Wisconsin violated the First Amendment when it denied a Catholic nonprofit an exemption from the state's unemployment insurance tax ("UIT"). The denial was originally based on the interpretation of the mission of the Catholic Charities Board ("CCB"), asserting that the organization's primary activities were secular in nature and not primarily religiously related. CCB challenged the ruling, arguing that the state's interpretation was overly narrow and would require an inquiry into religious motivation—something that the First Amendment seeks to avoid. CCB argued that if the state defines what counts as "religious" too narrowly—such as only recognizing worship-based or overtly spiritual activities—it risks violating the First Amendment's Establishment and Free Exercise Clauses. [Read More]

### Background

CCB is a nonprofit corporation affiliated with the Roman Catholic Diocese of Superior, Wisconsin. CCB operates a number of subordinate entities that provide charitable services—such as job training, housing, and support for people with disabilities—consistent with Catholic social teaching. CCB maintains that its operations are religious in nature, even though its services are offered to the public regardless of religious affiliation and its programs do not require religious participation.

The Wisconsin Department of Workforce Development ("DWD") determined that these sub-entities were required to participate in the state's UIT system. CCB challenged the applicability of the state's UIT law, arguing that its religious character qualified it for an exemption under Wis. Stat. § 108.02(15)(h)2., which exempts from the obligations of the UIT system (including collecting and remitting unemployment taxes to the unemployment fund) those employed by a "church or convention or association of churches" and certain organizations operated primarily for religious purposes. On appeal, the Wisconsin Supreme Court denied CCB's exemption from the UIT based on a finding that CCB did not proselytize and served people irrespective of faith. CCB then appealed this decision to the U.S. Supreme Court and challenged the Wisconsin Supreme Court's denial of the exemption as a violation of the Free Exercise Clause of the First Amendment to the U.S. Constitution.

In a unanimous (9-0) decision, issued on June 5, 2025, the U.S. Supreme Court agreed with CCB. In its opinion, the U.S. Supreme Court provided that the state cannot favor faiths that engage in proselytizing over those that do not. By imposing theological standards (e.g., "must proselytize"), Wisconsin violated the First

Amendment's Establishment and Free Exercise Clauses.

### **Implications for Religious Exempt Organizations:**

For religious nonprofit leaders and legal advisors, this ruling underscores the importance of carefully evaluating state and local regulatory frameworks and ensuring that policies do not inadvertently impose impermissible burdens or discriminatory standards on religious organizations. It also highlights the necessity of proactive legal and compliance strategies to safeguard religious exemptions and prevent costly litigation or loss of benefits due to misinterpretation of an organization's religious mission.

More broadly, the CCB case raises a critical tax question for religiously affiliated tax-exempt organizations: whether a faith-based organization can lose the benefits of tax-exemption simply because its work looks secular on the surface.

The U.S. Supreme Court's decision in *Catholic Charities Bureau* clarifies important limits on how states can treat religious organizations for tax exemption purposes and identifies three important points for organizations to keep in mind:

- 1. No favoritism based on religious practices or beliefs:** The government cannot favor specific religious groups that engage in certain theological practices when deciding to give tax exemptions.
- 2. Strict legal standards for exemptions tied to religious practices:** If states want to condition tax exemptions on specific religious activities, the application of such a policy must be narrowly tailored.
- 3. Focus on what the organization does:** When determining eligibility for tax exemptions, courts and states should look at the religious role or function that the organization performs, not the motivations or methods. This avoids judging religious beliefs or practices.

### **Takeaways:**

As a nonprofit executive, consider taking the following actions to safeguard your organization:

- **Review state-level guidelines and definitions** to determine how your organization's religious identity is treated.
- **Train leadership** to understand how religious identity influences services - even when services are not in religious form.
- **Specifically document your mission** by ensuring that governing documents, mission statements, and public materially clearly reference religious foundations and motivations.
- **Consult with legal counsel proactively** before modifying organizational language or structure in response to regulatory pressure.

### **Looking Forward:**

The *Catholic Charities Bureau* decision reinforces that a regulatory definition of a "religious organization" will not always align with how a religious entity defines itself and the missional services it is providing. For profit and nonprofit entities alike - specifically those with religious affiliations or missions - should take this moment to proactively evaluate how their structures, filings, and operations are positioned. Failing to make appropriate changes to an entity's policies and practices could lead to significant adverse consequences to the



organization.

If you have questions about this development or need assistance reviewing your organizational documents, contact Kendall A. Schnurpel, Robert A. Greising or your Krieg Devault attorney today.

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<sup>1</sup>24-154 Catholic Charities Bureau, Inc. v. Wisconsin Labor & Industry Review Comm'n (06/05/2025)