CONTROLLING LEGAL PRINCIPLES

Free Exercise Clause Decision – The "Contemplation of Justice"

Hernandez v. Commissioner, 490 U.S. 680 (1989)

Syllabus

The Church of Scientology (Church) provides "auditing" sessions designed to increase members' spiritual awareness and training courses at which participants study the tenets of the faith and seek to attain the qualifications necessary to conduct auditing sessions. Pursuant to a central tenet known as the "doctrine of exchange," the Church has set forth schedules of mandatory fixed prices for auditing and training sessions which vary according to a session's length and level of sophistication, and which are paid to branch churches. Under § 170 of the Internal Revenue Code of 1954, petitioners each sought to deduct such payments on their federal income tax returns as a "charitable contribution," which is defined as a "contribution or gift" to eligible donees. After respondent Commissioner of Internal Revenue (Commissioner or IRS) disallowed these deductions on the ground that the payments were not "charitable contributions," petitioners sought review in the Tax Court. That court upheld the Commissioner's decisions and rejected petitioners' constitutional challenges based on the Establishment and Free Exercise Clauses of the First Amendment. The Courts of Appeals affirmed on petitioners' separate appeals.

Held: Payments made to the Church's branch churches for auditing and training services are not deductible charitable contributions under § 170. Pp. 490 U. S. 689-703.

(a) Petitioners' payments are not "contribution[s] or gift[s]" within the meaning of § 170. The legislative history of the "contribution or gift" limitation reveals that Congress intended to differentiate between unrequited payments to qualified recipients, which are deductible, and payments made to such recipients with some expectation of a quid pro quo in terms of goods or services, which are not deductible. To ascertain whether a given payment was made with such an expectation, the external features of the transaction in question must be examined. Here, external features strongly suggest a quid pro quo exchange of petitioners'

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money for auditing and training sessions, since the Church established fixed prices for such sessions in each branch church; calibrated particular prices to sessions of particular lengths and sophistication levels; returned a refund if services went unperformed; distributed "account cards" for monitoring prepaid, but as-yet-unclaimed, services; and categorically barred the provision of free sessions. Petitioners' argument that a quid pro quo analysis is inappropriate when a payment to a church either generates purely religious benefits or guarantees access to a religious service is unpersuasive, since, by its terms, § 170 makes no special preference for such payments, and its legislative history offers no indication that this omission was an oversight. Moreover, petitioners' deductibility proposal would expand the charitable contribution deduction far beyond what Congress has provided to include numerous forms of payments that otherwise are not, or might not be, deductible. Furthermore, the proposal might raise problems of entanglement between church and state, since the IRS and reviewing courts would be forced to differentiate "religious" benefits or services from "secular" ones. Pp. 490 U. S. 689-694.

(d) Petitioners' assertion that disallowing their claimed deductions conflicts with the IRS' longstanding practice of permitting taxpayers to deduct payments to other religious institutions in connection with certain religious practices must be rejected in the absence of any specific evidence about the nature or structure of such other transactions. In the absence of those facts, this Court cannot appraise accurately whether IRS revenue rulings allowing deductions for particular religious payments correctly applied a quid pro quo analysis to the practices in question, and cannot discern whether those rulings contain any unifying

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principle that would embrace auditing and training session payments. Pp. 490 U. S. 700-703.

JUSTICE MARSHALL delivered the opinion of the Court.

Section 170 of the Internal Revenue Code of 1954 (Code), 26 U.S.C. § 170, permits a taxpayer to deduct from gross income the amount of a "charitable contribution." The Code defines that term as a "contribution or gift" to certain eligible donees, including entities organized and operated exclusively for religious purposes. [Footnote 1] We granted certiorari to determine

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whether taxpayers may deduct as charitable contributions payments made to branch churches of the Church of Scientology (Church) in order to receive services known as "auditing" and "training." We hold that such payments are not deductible.

Finally, the deduction petitioners seek might raise problems of entanglement between church and state. If framed as a deduction for those payments generating benefits of a religious nature for the payor, petitioners' proposal would inexorably force the IRS and reviewing courts to differentiate "religious" benefits from "secular" ones. If framed as a deduction for those payments made in connection with a religious service, petitioners' proposal would force the IRS and the judiciary into differentiating "religious" services from "secular" ones. We need pass no judgment now on the constitutionality of such hypothetical inquiries, but we do note that "pervasive monitoring" for "the subtle or overt presence of religious matter" is a central danger against which we have held

the Establishment Clause guards. Aguilar v. Felton, 473 U. S. 402, 473 U. S. 413 (1985); see also Widmar v. Vincent, 454 U. S. 263, 454 U. S. 272, n. 11 (1981) ("[T]he University would risk greater entanglement' by attempting to enforce its exclusion of `religious worship' and `religious speech'" than by opening its forum to religious as well as nonreligious speakers); cf. Thomas v. Review Bd. of Indiana Employment Security Div., 450 U. S. 707, 450 U. S. 716 (1981).

Accordingly, we conclude that petitioners' payments to the Church for auditing and training sessions are not "contribution[s] or gift[s]" within the meaning of that statutory expression. [Footnote 10]

The free exercise inquiry asks whether government has placed a substantial burden on the observation of a central religious belief or practice and, if so, whether a compelling governmental interest justifies the burden. Hobbie v. Unemployment Appeals Comm'n of Fla., 480 U. S. 136, 480 U. S. 141-142 (1987); Thomas v. Review Bd. of Indiana Employment Security Div., 450 U.S. at 450 U. S. 717-719; Wisconsin v. Yoder, 406 U. S. 205, 406 U. S. 220-221 (1972). It is not within the judicial ken to question the centrality of particular beliefs or practices to a faith, or the validity of particular litigants' interpretations of those creeds. Thomas, supra, at 450 U. S. 716. We do, however, have doubts whether the alleged burden imposed by the deduction disallowance on the Scientologists' practices is a substantial one. Neither the payment nor the receipt of taxes is forbidden by the Scientology faith generally, and Scientology does not proscribe the payment of taxes in connection with auditing or training sessions specifically. Cf. United States v. Lee, 455 U. S. 252, 455 U. S. 257 (1982). Any burden imposed on auditing or training therefore derives solely from the fact that, as a result of the deduction denial, adherents have less money available to gain access to such sessions. This burden is no different from that imposed by any public tax or fee; indeed, the burden imposed by the denial of the "contribution or gift" deduction would seem to pale by comparison to the overall federal income tax burden on an adherent. Likewise, it is unclear why the doctrine of exchange would be violated by a deduction disallowance so long as an adherent is free to equalize "outflow" with "inflow" by paying for as many auditing and training sessions as he wishes. See 822 F.2d at 850-853 (questioning substantiality of burden on Scientologists); 819 F.2d at 1222-1225 (same).

In any event, we need not decide whether the burden of disallowing the § 170 deduction is a substantial one, for our decision in Lee establishes that even a substantial burden would be justified by the "broad public interest in maintaining a sound tax system," free of "myriad exceptions flowing

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from a wide variety of religious beliefs." 455 U.S. at 455 U. S. 260. In Lee, we rejected an Amish taxpayer's claim that the Free Exercise Clause commanded his exemption from Social Security tax obligations, noting that "[t]he tax system could not function if denominations were allowed to challenge the tax system" on the ground that it operated "in a manner that violates their religious belief." Ibid. That these cases involve federal income taxes, not the Social Security system, is of no consequence. Ibid. The fact that Congress has already crafted

some deductions and exemptions in the Code also is of no consequence, for the guiding principle is that a tax "must be uniformly applicable to all, except as Congress provides explicitly otherwise." Id. at 455 U. S. 261 (emphasis added). Indeed, in one respect, the Government's interest in avoiding an exemption is more powerful here than in Lee; the claimed exemption in Lee stemmed from a specific doctrinal obligation not to pay taxes, whereas petitioners' claimed exemption stems from the contention that an incrementally larger tax burden interferes with their religious activities. This argument knows no limitation. We accordingly hold that **petitioners' free exercise challenge** is without merit.