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Taxation

Deductions Denied for Payments Made to Receive Religious Services

The *U.S. Supreme Court* has held that taxpayers could not deduct as charitable contributions payments made to the Church of Scientology in order to receive "auditing" and "training" services.

Members of the Church of Scientology believe that an immortal spirit live in each individual and that a person becomes aware of the spirit through a process called "auditing." Auditing is a one-on-one encounter between a participant and a church official. The church also offers "training" sessions to instruct participants wishing to become auditors. Fees for the sessions range from \$625 to \$4,250. The system of mandatory fixed charges is based on a central belief held by Scientologists called the "doctrine of exchange," according to which whenever a person receives something, he or she must pay something back. The proceeds from the sessions are the church's main source of income. Scientologists in this case sought to deduct those payments as charitable contributions on their tax returns. The Commissioner of Internal Revenue disallowed the deductions, and the Tax Court concurred, finding that the payments were not gifts because the participants had received consideration. Both the 1st and the 9th Circuits affirmed in these consolidated cases.

The *U.S. Supreme Court* affirmed. The Scientologists' payments for auditing and training sessions were not contributions

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or gifts within the meaning of Section 170 of the Internal Revenue Code. The section's legislative history indicates that Congress intended to differentiate between unrequited payments to qualified recipients, which are deductible, and payments made with the expectation of an exchange, which are not deductible. Section 170 makes no exception for payments made to guarantee access to religious services. Furthermore, Section 170 does not violate the establishment clause since it does not facially distinguish among religious sects but applies to all religious entities. The section is neutral in design and purpose and evinces no animus to religion in general or to Scientology in particular. Although disallowing the deductions imposes a burden on the Scientologists, even a substantial burden would be justified by the broad public interest in maintaining a sound tax system, free of a myriad of exceptions flowing from diverse religious beliefs.

Hernandez v. Commissioner of Internal Revenue, U.S. Supreme Court, Nos. 87-963 and 87-1616, June 5, 1989, by Marshall, J.; O'Connor, J., dissenting, joined by Scalia, J.

The full text of this case appears in the Daily Appellate Report on page 7177.

—JANICE A. BOLES