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High Court Rules Against Scientology In Tax Case

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WASHINGTON (AP) — Contributions called "fixed donations" made to the Church of Scientology by its members may not be claimed as federal income tax deductions, the Supreme Court ruled today.

By a 5-2 vote, the justices upheld the Internal Revenue Service's contention that the fixed donations are not charitable contributions that can be counted as tax deductions.

Lawyers for the Scientologists had argued that the IRS singled out their church for unfair treatment - a conten-

tion with which two justices agreed. "The court today acquiesces in the decision ... to manufacture a singular exception to (the IRS') 70-year practice of allowing fixed payments indistinguishable from those made by (Scientologists) to be deducted as charitable contributions," Justice Sandra Day O'Connor wrote in dissent.

"Because the IRS cannot constitutionally be allowed to select which religions will receive the benefit of its past rulings, I respectfully dissent," she said.

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O'Connor's opinion was joined by Justice Antonin Scalia.

But the court's majority, in an opinion by Justice Thurgood Marshall, said it had too little information about past IRS practices in dealing with other religions to find any discriminatory treatment.

Referring to the fixed donations made by Church of Scientology members, Marshall said, "We hold that such payments are not deductible."

Federal law allows taxpayers to reduce their tax liability by declaring various deductions, including money or things of value given to charities or religious organizations. But such a payment is not tax-deductible if something of value is received in return.

A practice within the Church of Scientology is a process known as auditing, in which members are expected to reach a higher level of spiritual awareness. Auditing is administered in a one-to-one session in which the church member's skin responses to questions are measured by an electronic device.

The church also engages in training sessions, in which members study the doctrines and practices of Scientology.

Each branch of the church charges

a fixed donation for training and auditing, and almost never waives the payment requirement.

The U.S. Tax Court ruled in a 1984 test case that the fixed donations required by the church are not tax deductible contributions but instead are non-deductible payments made for services.

Three federal appeals courts upheld the Tax Court's ruling but one rejected it.

Today's decision resolves the conflicting rulings, and represents a significant defeat for the Church of Scientology.

The high court rejected arguments that denying tax deductions for the fixed donations violates the religious freedom of Scientologists and creates an impermissible denominational preference.

Marshall wrote for the court that the IRS code defining charitable contributions "is neutral both in design and purpose."

Chief Justice William H. Rehnquist and Justices Byron R. White, Harry A. Blackmun and John Paul Stevens joined Marshall.

Justices William J. Brennan and Anthony M. Kennedy did not participate in the case.

The cases are *Herandez vs. Commissioner of Internal Revenue*, 87-963, and *Graham vs. Commissioner of Internal Revenue*, 87-1616.