Bronner v. Commissioner, 72 T. C. 368 (1979)

A party asserting a First Amendment privilege to protect membership lists must show prejudice from disclosure, balanced against the government's need for the information in a tax exemption inquiry.

Summary

In Bronner v. Commissioner, the U. S. Tax Court addressed whether a subpoena for church membership lists and other records should be quashed due to First Amendment concerns. Emanuel H. Bronner, president of the All One Faith In One God State Universal Life Church, Inc. , argued that the subpoena infringed on members' rights to free association and privacy. The court denied the motion to quash, finding that Bronner failed to demonstrate specific prejudice from disclosure, and that the information was relevant to determining the church's tax-exempt status. The case illustrates the need to balance constitutional protections with the government's legitimate interest in tax enforcement.

Facts

Emanuel H. Bronner, the petitioner and president of All One Faith In One God State Universal Life Church, Inc. (All One), was issued a subpoena by the Commissioner of Internal Revenue requesting church membership lists and other records for the years 1971-1974. The subpoena was related to a tax deficiency case involving Bronner's claimed deductions for contributions to All One. Bronner moved to quash the subpoena, arguing that it violated the First Amendment rights of the church's members to freedom of association, free exercise of religion, and privacy.

Procedural History

The Commissioner of Internal Revenue determined deficiencies in Bronner's income tax and issued a subpoena for church records. Bronner filed a motion to quash the subpoena in the U. S. Tax Court. The court held a hearing on the motion and ultimately denied it, allowing the subpoena to stand.

Issue(s)

1. Whether the subpoena for All One's membership lists and other records violates the First Amendment rights of the church's members to freedom of association and privacy.
2. Whether the subpoenaed records for the year 1974 are relevant and within the court's jurisdiction.

Holding

1. No, because the petitioner failed to demonstrate specific prejudice from disclosure, and the government's need for the information in determining tax-

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exempt status outweighed the asserted constitutional rights.
2. Yes, because the 1974 records may have relevance to the inquiry into the church's tax-exempt status.

Court's Reasoning

The court recognized that the First Amendment includes the right to free association and privacy, and that compelled disclosure of membership lists could infringe on these rights. However, the court emphasized that the party asserting the privilege must show prejudice from disclosure, such as exposure to public hostility or deterrence of free association. The court found that Bronner did not articulate how disclosure would specifically infringe on members' rights, nor did he provide evidence of past harm or likely future harm from disclosure. In contrast, the court noted the relevance of the membership lists to determining All One's status as a viable and tax-exempt organization. The court concluded that the government's need for the information outweighed the asserted constitutional rights. Regarding the 1974 records, the court found they may also be relevant to the tax-exempt status inquiry.

Practical Implications

This case illustrates the balancing test courts apply when First Amendment rights are asserted against a government's need for information in tax enforcement. Practitioners should be aware that a general assertion of constitutional privilege may not be sufficient to quash a subpoena; specific prejudice from disclosure must be demonstrated. The case also suggests that courts may be reluctant to entertain constitutional challenges to subpoenas in pre-trial motions, preferring to address such issues if and when a party is cited for contempt for non-compliance. For organizations claiming tax-exempt status, this decision underscores the importance of maintaining clear records and being prepared to justify the organization's activities and structure in the face of government inquiry.

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