Burns v. Commissioner, 76 T. C. 706 (1981)

The Fifth Amendment privilege against self-incrimination does not apply in civil tax proceedings when there is no reasonable cause to fear criminal prosecution.

Summary

In Burns v. Commissioner, the United States Tax Court ruled that David A. Burns could not invoke the Fifth Amendment privilege against self-incrimination to avoid answering a request for admissions in a civil tax proceeding. The court found that Burns had no reasonable basis for asserting the privilege, as he was not under criminal investigation and the questions posed were innocuous, relating to his employment and wages. The ruling underscores that the Fifth Amendment privilege is not applicable in civil contexts without a real danger of self-incrimination, thereby affecting how such privileges are invoked in similar tax cases.

Facts

David A. Burns, the petitioner, was involved in a civil tax proceeding with the Commissioner of Internal Revenue. The Commissioner served Burns with a request for admissions under Rule 90 of the Tax Court Rules of Practice and Procedure, seeking information about Burns' places of employment and gross wages for 1978. Burns objected to these requests, claiming his Fifth Amendment privilege against self-incrimination. The Commissioner then moved for a review of the sufficiency of Burns' objections under Rule 90(d). At the time of the hearing, Burns was informed that he was not under criminal investigation.

Procedural History

The Commissioner filed a request for admissions on August 12, 1980, which Burns answered on October 1, 1980, objecting to certain requests based on the Fifth Amendment. The Commissioner subsequently filed a motion for review of the sufficiency of Burns' objections on November 6, 1980, under Rule 90(d). Oral arguments were heard on January 26, 1981, leading to the Tax Court's decision on May 7, 1981.

Issue(s)

1. Whether Burns had a reasonable basis to assert the Fifth Amendment privilege against self-incrimination in response to the Commissioner's request for admissions.

Holding

1. No, because Burns did not have a reasonable basis to fear criminal prosecution, and the questions were not incriminating in nature.

Court's Reasoning

© 2025 SCOTUSreports.com. All rights reserved.

The court applied the principle that the Fifth Amendment privilege is available in civil proceedings but only when the individual has a reasonable cause to fear self-incrimination. The court relied on precedents such as Hoffman v. United States (341 U. S. 479, 1951) and Zicarelli v. New Jersey State Commission of Investigation (406 U. S. 472, 1972), which established that the privilege is limited to situations where there is a real danger of self-incrimination, not merely speculative possibilities. The court noted that Burns was informed he was not under criminal investigation and that the requests for admissions were innocuous, merely asking about employment and wages. The court concluded that Burns' assertion of the Fifth Amendment was frivolous and ordered him to answer the Commissioner's requests.

Practical Implications

This decision clarifies that the Fifth Amendment privilege cannot be invoked in civil tax proceedings without a legitimate fear of criminal prosecution. Attorneys representing clients in similar situations should carefully assess whether there is a real danger of self-incrimination before asserting the privilege. The ruling impacts legal practice by limiting the use of the Fifth Amendment in civil tax cases, potentially streamlining discovery processes. Businesses and taxpayers should be aware that routine requests for financial information in civil tax disputes are unlikely to be shielded by the Fifth Amendment unless specific circumstances indicate a real risk of criminal charges. Subsequent cases have cited Burns v. Commissioner to distinguish between legitimate and frivolous invocations of the Fifth Amendment in civil proceedings.

© 2025 SCOTUSreports.com. All rights reserved.