Hambarian v. Comm'r, 118 T. C. 565 (United States Tax Court 2002)

In Hambarian v. Comm'r, the U. S. Tax Court ruled that the selection of documents by a defense attorney from a larger set does not automatically transform them into protected work product. The court granted the IRS's motion to compel production of documents related to a taxpayer's criminal case, which were also relevant to a civil tax dispute. This decision clarifies the scope of the work product doctrine in tax litigation, emphasizing that a substantial volume of selected documents does not inherently reveal an attorney's mental impressions.

Parties

Jeffrey Hambarian and Virginia M. Hambarian, et al. , were the petitioners, represented by Mark M. Hathaway and James D. McCarthy, Jr. The respondent was the Commissioner of Internal Revenue, represented by Louis B. Jack and Nicholas J. Richards.

Facts

Jeffrey Hambarian was indicted in California on charges including grand theft, presenting false claims, commercial bribery, breach of fiduciary duty, receipt of corporate property, filing false state income tax returns, and money laundering. The same transactions and circumstances formed the basis for the IRS's determination of civil tax deficiencies. The Orange County District Attorney provided approximately 10,000 pages of documents to Hambarian's defense attorneys, who converted these into searchable electronic media. The defense attorneys also selected 100,000 pages from a larger universe of documents provided by the prosecuting attorney, also converting these into electronic media. The IRS sought access to these documents and media, which Hambarian resisted, claiming they were protected work product due to the defense attorney's selection process.

Procedural History

The IRS filed a motion to compel the production of the documents and electronic media from Hambarian. Hambarian opposed the motion, asserting that the documents were protected under the work product doctrine. The Tax Court, applying the de novo standard of review, considered the motion to compel and the applicability of the work product doctrine to the selected documents.

Issue(s)

Whether the mere selection of particular documents by a defense attorney from a larger universe of documents automatically transmutes the documents into protected work product under the attorney work product doctrine?

Rule(s) of Law

© 2025 SCOTUSreports.com. All rights reserved.

The work product doctrine, as established in *Hickman v. Taylor*, 329 U. S. 495 (1947), protects documents prepared in anticipation of litigation that reveal an attorney's mental impressions, legal theories, and strategies. The doctrine does not automatically apply to the mere selection of documents unless the selection process reveals the attorney's mental impressions. The court cited cases such as *Sporck v. Peil*, 759 F. 2d 312 (3d Cir. 1985), and subsequent cases that have refined the application of the doctrine, emphasizing the need for a showing that the disclosure of selected documents would reveal the attorney's mental impressions.

Holding

The Tax Court held that the selection of 100,000 pages of documents by Hambarian's defense attorney did not automatically convert them into protected work product. The court found that the large volume of documents did not pose a real, non-speculative danger of revealing the attorney's mental impressions, and thus, the documents were not protected under the work product doctrine.

Reasoning

The court reasoned that the work product doctrine protects documents that reveal an attorney's mental impressions, but the mere act of selecting documents does not automatically confer this protection. The court distinguished the facts of this case from those in *Sporck v. Peil*, noting that the selection of a smaller, more discrete set of documents in *Sporck* could potentially reveal the attorney's mental impressions, whereas the selection of 100,000 pages in this case did not. The court emphasized that Hambarian failed to show with specificity how the disclosure of the selected documents would reveal the defense attorney's mental impressions. The court also considered the policy of encouraging the exchange of documents in civil tax proceedings and the potential for abuse if the work product doctrine were applied too broadly to document selection. The court noted that any annotations on the documents that might constitute work product could be excised, but the documents themselves were not protected.

Disposition

The court granted the IRS's motion to compel the production of the documents and electronic media.

Significance/Impact

The decision in *Hambarian v. Comm'r* clarifies the application of the work product doctrine in the context of tax litigation, particularly with respect to the selection of documents. It establishes that the mere act of selecting documents from a larger universe does not automatically render them protected work product unless there is a clear showing that the selection process would reveal the attorney's mental impressions. This ruling has implications for the discovery process in tax cases,

© 2025 SCOTUSreports.com. All rights reserved.

where documents may be relevant to both criminal and civil proceedings. It also underscores the importance of specificity in asserting work product protection and the court’s reluctance to extend the doctrine to large volumes of documents without a clear justification.

© 2025 SCOTUSreports.com. All rights reserved.