

~~~~~ **Interpreting Taxing Statutes # 18 – Grammatical meaning**

The starting point in statutory interpretation is ascertainment of the grammatical meaning of the words used in an enactment. The grammatical or literal meaning of an enactment is its linguistic meaning taken in isolation from legal considerations, that is the meaning it bears when, as a piece of prose, it is construed according to the rules of grammar and the accepted linguistic canons of construction. And such construction is called as 'literal construction'.¹

SYNOPSIS

Grammatical meaning

Types of ambiguity

Bilingual enactment

Resolving ambiguity through opposing construction

Grammatical meaning

The starting point in statutory interpretation is the ordinary linguistic meaning of the words used. Legal considerations apart, this meaning may be clear, ambiguous or obscure. Even when clear, it may not correspond to the legal meaning of the enactment. There is clear conceptual difference between grammatical meaning apart from legal considerations, and overall meaning taking those considerations into account.²

Types of Ambiguity

Linguists distinguish between **semantic ambiguity** (caused by the fact that one word may in itself have several meanings),

¹ Bennion 2020 s 10.4

² Bennion 2020 p 365

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**syntactic ambiguity** (arising from the grammatical relationship of words as they are chosen and arranged by the drafter) and **contextual ambiguity** (when there is conflict between the enactment between internal or external context).<sup>3</sup>

An enactment may be **ambiguous generally** so that whatever the factual situation there will be uncertainty as to its grammatical meaning. Alternatively, the uncertainty may **arise only in relation to certain facts**. It is not uncommon for there to be a penumbra of doubt at the periphery, where the question whether (and if so how) the enactment applies in relation to the factual situation may be difficult to resolve. This arise from the nature of legislation, which is necessarily drafted in general terms and yet must be applied to a multitude of factual situations. It applies particularly where a broad term is used.<sup>4</sup>

### Bilingual enactment

Where an enactment is made bilingually ambiguity could occur in either language, although a comparison with the text in the other language might enable it to be resolved. There is also the possibility of a kind of contextual ambiguity arising where although the linguistic meaning of each text is apparently clear in itself, the meaning in the context appears to be different.<sup>5</sup>

In multilingual jurisdiction, constitutional law usually lays down the relative status of the languages, and interpretation legislation may make provision about the relationship between different texts of an enactment.<sup>6</sup>

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<sup>3</sup> Bennion 2020 p 365

<sup>4</sup> Bennion 2020 p 366

<sup>5</sup> Bennion 2020 p 366

<sup>6</sup> Bennion 2020 p 379

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For example, Art 348 of the Constitution of India lays down that the authoritative text of all Act passed by the parliament or the legislature shall be in the English language. Even where the legislature of a State has prescribed any language other than the English language as official language, a translation of the same in the English language shall be deemed to be the authoritative text thereof.

Resolving ambiguity through opposing construction

A grammatical ambiguity may be best resolved by considering it in light of opposing construction of the enactment on the particular facts of the case. If the opposing constructions are evenly balanced grammatically then other interpretative criteria will wholly decide the issues. If they are not, then one meaning will have more claim than the other to be the grammatical meaning and will carry more weight accordingly (though other interpretative factors may of course displace that meaning).⁷

⁷ Bennion 2020 p 367