

Interpreting Taxing Statutes # 105 – Weight of external aids

It is for the court, when determining the legal meaning of a provision, to decide what weight or importance to attach to any external aids to construction that are admitted. The weight will depend on all the circumstances, including other interpretive factors that are relevant to the case. [Ben 24.4]

SYNOPSIS

While the courts are prepared to admit a wide range of external aids in construing legislation, the weight or value to be attached to the material will vary from case to case. The court is not bound by external statements as to what a provision means: ‘it is for the court and no one else to decide what words in a statute mean’. [Black-Clawson International Ltd v Papierwerke waldhof-Aschaffenberg Ag [1975] AC 591] The purpose of admitting external aids to construction is to help inform and assist the court in carrying out that constitutional function. As always, the court needs to arrive at the legal meaning by weighing the interpretative factors in favour of rival constructions. In some cases external aids carry considerable weight; in others they are of little or no assistance. The question of how much weight to attach to extraneous material is a matter of judgment for the courts having regard to all the circumstances.

R v Secretary of State for the Environment, Transport and the Regions, ex p Spath Holme Ltd:

‘Government statements, however they are made and however explicit they may be cannot control the meaning of an Act of Parliament. As with other extraneous material, it is for the court, when determining what was the intention of Parliament in using

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the words in question, to decide how much importance or weight, if any, should be attached to a Government statement. The weight will depend on all the circumstances. For instance, the statement might conflict with the principle of interpretation that penal legislation is to be construed strictly’.

Particular care needs to be taken where external material is relied on for the opinion it contains as to the meaning or effect of a provision. It is at best persuasive and the weight given to it should depend solely on the quality of the argument for a particular interpretation. The weight attributed to it should not be influenced by the status of the person expressing the opinion: an argument should stand on its own feet, and not gain (or lose) cogency from its provenance. In other words cogency should here depend solely on the quality of argument displayed in the source.