

Interpreting Taxing Statutes # 81 – Technical terms

If a word or phrase has a technical meaning in relation to a particular expertise, and is used in a context dealing with that expertise, it is to be given its technical meaning unless the contrary intention appears.^{^1}

Where an enactment uses a term which has both an ordinary and a technical meaning, the intended meaning is determined by the context. If the context is technical, the presumption is that the technical meaning of the term is intended. Otherwise the ordinary meaning is taken as meant.^{^2}

SYNOPSIS

Technical terms

Technical terms are terms not in ordinary use, which have a meaning in the context of their specialized use in a particular field of expertise. Where it is possible to identify a particular expertise with which the Act is dealing, it is assumed that the words are used in the sense understood by those who practice the expertise. Said as follows:

‘If it is a word which is of a technical and scientific character then it must be construed according to that which is its primary meaning, namely its technical and scientific meaning.’^{^3}

Again,

‘If the Act is directed to dealing with matters affecting everybody generally, the words used have the meaning attached to them in the common and ordinary use of language. If the Act

¹ Bennion 2020 s 22.4

² Bennion 2020 s 22.7

³ Holt & Co v Collyer (1881) 16 Ch D 718 cited in Bennion 2020 p 659

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is one passed with reference to a particular trade, business, or transaction, and words are used which everybody conversant with that trade, business, or transaction, knows and understands to have a particular meaning in it, then the words are to be construed as having that particular meaning, though it may differ from the common or ordinary meaning of the words.’<sup>4</sup>

Similarly, Blackstone said that technical terms must be taken according to the acceptance of those learned in each art, trade and science.<sup>5</sup>

A technical term may have no other meaning but its technical one, or it may have one or more ordinary meanings too.<sup>6</sup>

### **Technical term with different meaning**

Where a technical expression incorporates an ordinary word and gives it a special meaning, it does not then conform to the word as used in an enactment with its ordinary meaning. An obvious example is Bombay duck, which is not duck at all, but fish. It would not be covered by an enactment regulating ‘duck’.<sup>7</sup>

Similarly, where the court considered a provision which placed a tax on ‘spirits’, without elaborating the meaning. It was held that this, being a word of known import, is used in the sense in which it is ordinarily understood. It therefore does not cover sweet spirits of nitre, which is a known article of commerce not ordinarily described as ‘spirits’.<sup>8</sup>

### **Term with more than one technical meaning**

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<sup>4</sup> Unwin v Hanson (1891) 2 QB 115 cited in Bennion 2020 p 659

<sup>5</sup> Blackstone Commentaries on the Laws of England (1st edn, 1765-1769) I 59 cited in Bennion 2020 p 659

<sup>6</sup> Bennion 2020 p 659

<sup>7</sup> Bennion 2020 p 659

<sup>8</sup> A-G v Bailey (1847) 1 Exch 281 cited in Bennion 2020 p 660

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A technical term may, of course, have different technical meanings, or a wider and narrower meaning. For example, the term ‘assessment’ was used in the Income Tax Acts with no less than eight different meanings.⁹ The intended meaning must then be determined having regard to all relevant interpretative criteria.

Many words and phrases have both an ordinary and a technical meaning. In deciding which is intended, it is necessary to consider the surrounding words and any other relevant aids to construction. If the surrounding words are technical, it may be a reasonable assumption that the term is intended to bear its technical meaning. If, however, the term is used in a non-technical context it is presumed to have its ordinary meaning.

Use of related technical terms

Where a term has both an ordinary and a technical meaning and it is accompanied by related technical terms this may indicate that it is intended to be given its technical meaning.

⁹ Income Tax General Purpose Comrs for City of London v Gibbs (1942) cited in Bennion 2020 p 660