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## **Interpreting Taxing Statutes # 22 – Judicial acceptance of legislative intention**

**The interpreter must give effect to the legislative intention even if he disagrees with it and considers the result unjust.<sup>1</sup>**

The criteria developed to guide interpretation are intended to assist the court in ascertaining the legislature's intention. Where the intention is plain, it must be implemented. Obviously, a particular judge may find the policy of an enactment not to their person liking. It is axiomatic that the judge must resolutely thrust aside such consideration when arriving at a decision. What may not be so obvious is that judges, once they feel certain of the intention, must also put aside more general considerations. An enactment may strike a judge unjust. That cannot affect the judicial duty. As observed in an English case:

“In the field of statute law the judge must be obedient to the will of Parliament as expressed in its enactment. In this field parliament makes and unmakes the law and the judge's duty is to interpret and to apply the law, not to change it to meet the judge's idea of what justice requires. Interpretation does, of course imply in the interpreter a power of choice where differing constructions are possible. But our law requires the judge to choose the construction which in his judgement best meets the legislative purpose of the enactment. If the result be unjust but inevitable, the judge may say so and invite Parliament to reconsider its provision. But he must deny the statute. Unpalatable statutes law may not be disregarded or rejected, merely because it is unpalatable. Only if a just result can be achieved without violating the legislative purpose of the statute

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<sup>1</sup> Bennion 2020 s 10.10

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may the judge select the construction which best suit his idea of  
what justices requires.”<sup>2</sup>

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<sup>2</sup> Duport Steels Ltd v Sirs [1980] 1 WLR 142 cited in Bennion 2020 p 386

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