

Interpreting Taxing Statute # 26 – Presumption in favour of grammatical meaning

There is a presumption that the grammatical meaning of an enactment is the meaning that was intended by the legislator.^{^1}

SYNOPSIS

Initial presumption

Departure from the presumption

Initial presumption

The initial presumption is in the favour of the grammatical meaning, since the legislature is taken to mean what it says. This was stated thus:

“There is always some presumption in favour of the more simple and literal interpretation of the words of the statute.”^{^2}

Judges of the present day show no inclination to abandon this presumption:

“An appropriate starting point is that language is to be taken to bear its ordinary meaning in the general context of the statute.”^{^3}

The grammatical meaning, is to be treated as pre-eminent. In general, the weight to be attached to the grammatical meaning is far greater than applies to any other interpretative criterion.^{^4}

A significant factor here is the fact that drafting of Acts now is precise. Even though where drafting is less precise, this presumption carries significant weight.^{^5}

¹ Bennion 2020 s 11.4

² Caledonian Rly Co v North British Rly Co (1881) 6 App 114 cited in Bennion 2020 p 398

³ R v Secretary of State for the Environment, Transport and the Regions, Ex p Spath Holme Ltd (2001) 2 AC 349 cited in Bennion 2020 p 399

⁴ Bennion 2020 p 398

Departure from the presumption

Departure from the grammatical meaning may be made but mere speculation will not justify the departure. There must be real doubt before the question will even be entertained by the court.⁶

So, there is no literal rule of interpretation in the sense that the grammatical meaning must invariably be followed. Determining when it is to be departed from is perhaps the interpreter's most difficult task.⁷

⁵ Bennion 2020 p 399

⁶ Lumsden v IRC (1914) AC 877 cited in Bennion 2020 p 399

⁷ Bennion 2020 p 400