
Editor's Introduction: The Supreme Court and the Interpretation of Tax Statutes

This issue of the journal contains two separate Policy Forum contributions. The first is by Brian Arnold, and it is both important and timely. Arnold continues his critique of the principles of statutory interpretation articulated by the Supreme Court of Canada in the *Canada Trustco* case¹—on this occasion, examining the court's further comments on those principles in the recent *Placer Dome* decision.²

The issue of statutory interpretation that arose in *Placer Dome* involved provisions of the Ontario Mining Tax Act. Specifically, the question was whether the proceeds from trading in certain derivatives, in the nature of hedging, should be included in the proceeds of mine production, in light of the separate identification of these components of mining income in the statute. The Supreme Court took this opportunity to restate and reframe the guidance it provided in the *Canada Trustco* case regarding the interpretation of tax statutes according to a “textual, contextual and purposive” (TCP) standard.

Arnold's previous analysis of the Supreme Court's decision in *Canada Trustco* and its accompanying decision in *Mathew*³ constitutes an important and seminal criticism of the TCP standard as articulated and applied by the court. In *Canada Trustco*, the court seems to apply the TCP approach as a device to resolve uncertainty about the meaning of particular provisions of the Income Tax Act, once the legitimacy of their application has been questioned in the context of the general anti-avoidance rule (GAAR).⁴ This, of course, begs the question of whether the contextual and purposive elements of interpretation, in particular, are relevant more generally in interpreting the text of the Act, even when profound questions about tax avoidance are not in issue. Uncertainty in this respect was perhaps compounded by the court's use of the TCP approach in *Mathew* as a formative interpretation tool to understand the meaning and scope of subsection 18(13) of the Act, even before getting to the GAAR analysis.

1 *The Queen v. Canada Trustco Mortgage Co.*, 2005 SCC 54. Arnold presented a thorough critical analysis of those principles in a Policy Forum contribution published earlier this year: see Brian J. Arnold, “Policy Forum: Confusion Worse Confounded—The Supreme Court of Canada's GAAR Decisions” (2006) vol. 54, no. 1 *Canadian Tax Journal* 167-209.

2 *Ontario (Min. of Finance) v. Placer Dome Canada*, 2006 SCC 20.

3 *Mathew v. The Queen*, 2005 SCC 55, and Arnold, *supra* note 1.

4 Section 245 of the Income Tax Act, RSC 1985, c. 1 (5th Supp.), as amended (herein referred to as “the Act”).

As well, in a contemporaneous case involving Montreal's noise bylaws,⁵ the court applied the TCP approach to interpret specific provisions of municipal legislation without, seemingly, being required to make a determination of any significant or overriding public policy intent.

At that point, there seemed to be a possible spectrum for TCP analysis between, on the one hand, a literalist or purely textual pole for legislation whose significance is thought to be self-evident and, on the other, a contextual and purposive pole for legislation whose significance is latent and can only be revealed by construction weighted by purposive interpretation. Even so, it seemed that, with respect to tax legislation, the TCP approach might predominantly be a tool for understanding statutory provisions only after the GAAR has become an issue and therefore, according to the law that has built up around the GAAR, only after a primary determination has been made that those provisions otherwise apply. This might be taken to imply—whether or not so intended by the Supreme Court of Canada—that the TCP approach to statutory interpretation is not to be applied generally in the ordinary course of applying the provisions of the Income Tax Act.

It is perhaps unusual for the Supreme Court of Canada to have an opportunity, so soon after a decision as significant as *Canada Trustco*, to consider, clarify, and restate its views on a matter of such fundamental importance, as occurred in the *Placer Dome* case. LeBel J, in highly articulate and well-organized reasons, considered how the TCP approach should be applied to the application of the Act and identified a range of possibilities for which, seemingly, gradations of TCP analysis would be pertinent, depending upon the precision and inherent clarity with which specific provisions are drafted and thus the extent to which they are self-revealing as to their significance and scope.

Arnold, in his earlier commentary, questioned the utility of the statutory interpretation standard set by the Supreme Court in the *Canada Trustco* case. He explored its shortcomings in considerable critical depth. First, it is hard to understand how the TCP approach, implicitly or otherwise, would be confined to a GAAR analysis—if this is what the court intended—and therefore could not and should not have a role to play, initially, in interpreting other provisions of the Act—either before a GAAR analysis or, indeed, where the GAAR is not even an issue. That is not to say that the court may not have meant to leave undisturbed the expectation that particular provisions of the Act should be interpreted contextually and purposively, as well as textually, as the circumstances require. Indeed, it has said something to this effect in the recently released decision in *The Queen v. Imperial Oil Limited* and *The Queen v. Inco Limited and Techinco Limited*.⁶ A second problem is that it is unclear how much weight should be accorded to each of the “textual,” “contextual,” and “purposive” elements of the TCP approach.

5 *Montreal (City) v. 2952-1366 Québec Inc.*, 2005 SCC 62.

6 2006 SCC 46.

Arnold extends the analysis of his previous commentary to question the utility of the court's restatement of its statutory interpretation principles in *Placer Dome*, focusing on these and other difficulties presented by the court's reasons. For example, in *Placer Dome*, the court acknowledged the possibility that the TCP analysis should be applied more generally, depending upon how uncertain in scope or application a particular provision of the Act may be. However, this reasoning is somewhat circular. The TCP analysis is to be applied if the particular provisions of the Act cannot be understood without it. But how are the particular provisions of the Act to be understood in the first place, in order to determine whether or not a TCP analysis—with varying degrees of emphasis on its three components—is necessary?

At present, it may be that the TCP approach applies generally to an understanding of particular provisions of the Act, even outside the GAAR context. However, its primary role is to resolve questions of “abuse” and “misuse” when provisions of the Act are thought to have successful application but for tax-avoidance overtones. It is difficult to understand how a provision of the Act can be interpreted “properly,” using a TCP analysis, but its application be subsequently questioned, and possibly inverted, by again using a TCP analysis to apply subsection 245(4). Furthermore, if a TCP analysis is applied to establish the “proper” application of specific provisions of the Act, one might wonder why the GAAR would be invoked in the first place, let alone why its application would be determined with reference to a (the same?) TCP analysis. Furthermore, the suggested gradations of TCP analysis, while theoretically capable of being explained, lack clear lines of internal demarcation, which would be required for consistent application.

The critique put forward by Brian Arnold in his two Policy Forum articles—informed as it is by many years of critical study of how courts apply the Act—constitutes a unique response to the *Canada Trustco* case and, in our view, makes a very important contribution to the literature on statutory interpretation in the Canadian tax setting. Not only does it examine in depth the subtle implications of the Supreme Court's statement of principles in *Canada Trustco*, but it also suggests a framework for attempting to discern and articulate principles of interpretation that must actually be applied in making difficult decisions, in a day-to-day environment. Such principles are essential if taxpayers are to make reliable predictions about how the Act can and should be expected to apply.

Scott Wilkie
Editor

Policy Forum: The Supreme Court and the Interpretation of Tax Statutes—Again

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ABSTRACT

This brief note analyzes the Supreme Court's comments on statutory interpretation in the recent *Placer Dome* case, particularly in light of the court's earlier comments in *Canada Trustco* on the proper approach to the interpretation of tax statutes. The author concludes that the court's approach to statutory interpretation has not changed but remains flawed.

KEYWORDS: STATUTORY INTERPRETATION

CONTENTS

Introduction	677
The Court's Comments and Their Implications	678
Conclusion	683

[W]ords are very rascals

—Shakespeare, *Twelfth Night*

INTRODUCTION

This brief note discusses the comments of the Supreme Court of Canada on the interpretation of tax statutes in the recent *Placer Dome* case.¹ The purpose of the note is to determine how, if at all, the court's views have changed since its 2005 decisions in *Canada Trustco* and *Mathew*,² in which the court discussed at length the proper approach to the interpretation of tax statutes. In a Policy Forum article published earlier this year,³ I was strongly critical of the court's comments on statutory interpretation. This note is based on and makes extensive references to the part of my

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1 *Ontario (Min. of Finance) v. Placer Dome Canada*, 2006 SCC 20.

2 *The Queen v. Canada Trustco Mortgage Co.*, 2005 SCC 54, and *Mathew v. The Queen*, 2005 SCC 55.

3 Brian J. Arnold, "Policy Forum: Confusion Worse Confounded—The Supreme Court's GAAR Decisions" (2006) vol. 54, no. 1 *Canadian Tax Journal* 167-209.

earlier article dealing with statutory interpretation, and readers may wish to refer to that article for more detailed discussion of most of the issues raised here.

The court's decision concerning the substantive issue in *Placer Dome* is not discussed in this note except to provide some context for the analysis of its comments on statutory interpretation.

THE COURT'S COMMENTS AND THEIR IMPLICATIONS

The issue in the *Placer Dome* case was the meaning of the term "hedging" in the Ontario Mining Tax Act.⁴ That act imposes a tax on the profits of mine operators. "Profits" is defined to mean proceeds less allowable deductions, and "proceeds" is defined to include "all consideration received or receivable from hedging and future sales or forward sales of the output of the mine."⁵ "Hedging" is defined to mean "the fixing of a price for output of a mine before delivery by means of a forward sale or a futures contract on a recognized commodity exchange, or the purchase or sale forward of a foreign currency related directly to the proceeds of the output of a mine."⁶

The specific issue of interpretation was whether the term "hedging" was restricted to contracts requiring settlement by physical delivery of the output of a mine. In the Superior Court of Justice, Cullity J, a former tax professor and lawyer, applied the case law under the federal Income Tax Act to the meaning of "hedging" in the Ontario Mining Tax Act. Under that case law, a link is necessary between the financial transaction and the output of the mine. However, Cullity J held that "hedging" was not so restricted because the statutory definition of "proceeds" required the inclusion of hedging contracts settled by physical delivery; as a result, a restrictive interpretation would make the definition of "hedging" redundant. The Ontario Court of Appeal reversed the Superior Court in a split decision. Surprisingly, the majority held that the meaning of the term "hedging" was clear and unambiguous and required physical delivery of output. The Supreme Court in turn reversed the Court of Appeal, holding that the meaning of "hedging" was ambiguous and that the broader definition was preferable because, as pointed out by Cullity J at trial, otherwise the definition of "hedging" would be redundant.

Under the heading "Interpretation of Tax Statutes," the Supreme Court summarizes the applicable principles and then deals with the issue of the burden of proof. The court's summary of the general principles for the interpretation of tax statutes is contained in three short paragraphs, which are reproduced below for the reader's convenience:

21 In *Stuart Investments Ltd. v. The Queen*, [1984] 1 S.C.R. 536, this Court rejected the strict approach to the construction of taxation statutes and held that the modern

4 RSO 1990, c. M.15, as amended.

5 *Ibid.*, section 1(1).

6 *Ibid.*

approach applies to taxation statutes no less than it does to other statutes. That is, “the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament” (p. 578): see *65302 British Columbia Ltd. v. Canada*, [1999] 3 S.C.R. 804, at para. 50. However, because of the degree of precision and detail characteristic of many tax provisions, a greater emphasis has often been placed on textual interpretation where taxation statutes are concerned: *Canada Trustco Mortgage Co. v. Canada*, [2005] 2 S.C.R. 601, 2005 SCC 54, at para. 11. Taxpayers are entitled to rely on the clear meaning of taxation provisions in structuring their affairs. Where the words of a statute are precise and unequivocal, those words will play a dominant role in the interpretive process.

22 On the other hand, where the words of a statute give rise to more than one reasonable interpretation, the ordinary meaning of words will play a lesser role, and greater recourse to the context and purpose of the Act may be necessary: *Canada Trustco*, at para. 10. Moreover, as McLachlin C.J. noted at para. 47, “[e]ven where the meaning of particular provisions may not appear to be ambiguous at first glance, statutory context and purpose may reveal or resolve latent ambiguities.” The Chief Justice went on to explain that in order to resolve explicit and latent ambiguities in taxation legislation, “the courts must undertake a unified textual, contextual and purposive approach to statutory interpretation.”

23 The interpretive approach is thus informed by the level of precision and clarity with which a taxing provision is drafted. Where such a provision admits of no ambiguity in its meaning or in its application to the facts, it must simply be applied. Reference to the purpose of the provision “cannot be used to create an unexpressed exception to clear language”: see P.W. Hogg, J.E. Magee and J. Li, *Principles of Canadian Income Tax Law* (5th ed. 2005), at p. 569; *Shell Canada Ltd. v. Canada*, [1999] 3 S.C.R. 622. Where, as in this case, the provision admits of more than one reasonable interpretation, greater emphasis must be placed on the context, scheme and purpose of the Act. Thus, legislative purpose may not be used to supplant clear statutory language, but to arrive at the most plausible interpretation of an ambiguous statutory provision.⁷

In these paragraphs, the Supreme Court repeats much of what it said about statutory interpretation in its decision in *Canada Trustco*⁸ in October 2005. Although the modern approach⁹ applies to all statutes, the text has often been given “greater

7 Supra note 1. In paragraph 24, the Supreme Court reiterates the residual presumption that any doubt about an ambiguous provision that cannot be resolved by applying the ordinary process of statutory interpretation should be resolved in favour of the taxpayer. This principle was articulated by the court in *Corp. Notre-Dame de Bon-Secours v. Québec (Communauté urbaine)*, [1994] 3 SCR 3. It is not discussed further here.

8 Supra note 2.

9 In *Stubart Investments Ltd. v. The Queen*, [1984] CTC 294, the Supreme Court adopted the so-called modern rule of statutory interpretation as expressed by Elmer Driedger: “Today there is only one principle or approach, namely, the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.” *Ibid.*, at 316, quoting Elmer A. Driedger, *Construction of Statutes*, 2d ed. (Toronto: Butterworths, 1983), 87.

emphasis” in the interpretation of tax statutes “because of the degree of precision and detail characteristic of many tax provisions.”¹⁰ Up to this point, the Supreme Court’s comments are unobjectionable. The modern rule applies to the interpretation of all statutes, but the literal meaning of precise and detailed provisions is often (not always) given more weight in particular cases than contextual and purposive considerations. The important point is that the literal interpretation of precise and detailed tax provisions in any particular case is just an example of the application of the modern approach; it is not a rule applicable in all cases.¹¹ The court immediately loses its way, however, by suggesting that it is a rule. Clear, precise, and unequivocal words play a dominant role because taxpayers are entitled to certainty in planning their affairs. Later, the court makes literal interpretation even more clearly a rule by stating that unambiguous provisions “must simply be applied.”¹²

There are several problems with the court’s creation of a rule requiring that precise and detailed tax provisions be given a literal interpretation.

First, the court’s position appears to be inconsistent with its statements to the effect that even where statutory provisions appear to be clear, “statutory context and purpose may reveal or resolve latent ambiguities” and, as a result, “the courts must undertake a unified textual, contextual and purposive approach to statutory interpretation.”¹³ Perhaps, however, the court’s position is that, although the context and purpose must always be considered, they are not entitled to much weight if the words of the provision in question are clear. The court has suggested as much in prior cases.¹⁴ On this reading, the court’s position is not internally inconsistent. However, even if the court’s position is not inconsistent, it is unjustified. It is simply unnecessary for the Supreme Court to prejudge the interpretation of detailed and precise provisions. Like all statutory provisions, such provisions should be interpreted in accordance with the modern approach, with due weight being given to the

10 Supra note 1, at paragraph 21.

11 Therefore, for example, the literal meaning of precise and detailed provisions in non-tax statutes might also receive greater emphasis.

12 Supra note 1, at paragraph 23: “Where a provision admits of no ambiguity in its meaning or in its application to the facts, it must simply be applied.” This statement is taken from *Friesen v. The Queen*, [1995] 2 CTC 369 (SCC), although the court does not refer to that case as authority in *Placer Dome*. In *Friesen*, at 373, the court quotes from P.W. Hogg’s *Notes on Income Tax*, 3d ed. (Toronto: Carswell, 1994), 22:12: “When a provision is couched in specific language that admits of no doubt or ambiguity in its application to the facts, then the provision must be applied regardless of its object and purpose.” Further, in its own words, the court in *Friesen*, at 388, states unequivocally that “the object and purpose of a provision need only be resorted to when the statutory language admits of some doubt or ambiguity.” Similarly, in *Shell Canada Ltd. v. The Queen*, [1999] 4 CTC 313, at 328-29, the court wrote, “Where the provision at issue is clear and unambiguous, its terms must simply be applied.”

13 Supra note 1, at paragraph 22, quoting from *Canada Trustco*, supra note 2, at paragraph 47.

14 See *65302 British Columbia Ltd. v. The Queen*, [2000] 1 CTC 57, at 79-80 (SCC).

ordinary meaning of the words, the context, and the purpose of the provisions in each particular case. It may be appropriate to give greater emphasis to the literal meaning of the text in some situations, and to give little or no weight to the context and purpose in other situations; but this should be determined on a case-by-case basis, and not in advance because of a court's judgment that a tax provision is clear or precise and detailed.¹⁵ The court's approach will lead courts into a fruitless inquiry as to whether or not a provision is precise and detailed, instead of a textual, contextual, and purposive analysis in all instances.

Second, even if legislation is precise and detailed, this does not mean that a court should apply a strictly literal interpretation.¹⁶ Like other provisions, detailed and precise statutory provisions exist in the broader context of the statute as a whole, and have a purpose. In all cases, the context and purpose of the provisions should be considered and given the appropriate weight.

Third, the only reason that the court gives for the literal interpretation of precise and unequivocal tax provisions is that taxpayers are entitled to rely on the literal meaning of tax legislation in planning their affairs.¹⁷ Once again, the court is simply repeating what it said in *Canada Trustco*. In response, I can only refer to the arguments I have made previously that literal interpretation cannot be justified on the basis of certainty or predictability.¹⁸

Fourth, detailed and precise provisions in other statutes should presumably also be interpreted literally. Yet the Supreme Court has never suggested this. While it has repeatedly stated that the interpretation of tax statutes is no different from the interpretation of other statutes, it seems to have created a rule of interpretation applicable only to tax statutes.

15 The court's approach presents the risk of the dead-end dilemma that Binnie J created in his dissenting reasons for judgment in *Will-Kare Paving & Contracting Ltd. v. The Queen*, [2000] 3 CTC 463 (SCC). According to Binnie J, the conclusion that a provision is clear or unequivocal, or that it has a plain meaning, is the result of a contextual and purposive analysis, as required by the modern approach to statutory interpretation. The difficulty with this reasoning is that if the meaning of the provision is not clear after applying the modern approach, the ambiguity cannot be resolved by applying the modern approach again, as suggested by Binnie J, but only by the application of a presumption in favour of either the taxpayer or the government. Instead, the analysis required by the modern approach should be applied to determine the best or most appropriate meaning. See Brian J. Arnold, "Reflections on the Relationship Between Statutory Interpretation and Tax Avoidance" (2001) vol. 49, no. 1 *Canadian Tax Journal* 1-39, at 9-11.

16 See Arnold, *supra* note 3, at 176-77.

17 *Supra* note 1, at paragraph 21.

18 See Brian J. Arnold, "Statutory Interpretation: Some Thoughts on Plain Meaning," in *Report of Proceedings of the Fiftieth Tax Conference*, 1998 Conference Report (Toronto: Canadian Tax Foundation, 1999), 6:1-36, at 6:29-30; and Arnold, *supra* note 15, at 27-28. See also John Tiley, "Judicial Anti-Avoidance Doctrines: Corporations and Conclusions" [1988] no. 4 *British Tax Review* 108-45, at 134-36.

Although the Supreme Court does not recognize it, its statements about the proper approach to statutory interpretation are contradictory. On the one hand, if the wording of a provision is clear, precise, and unequivocal, the literal meaning applies and no consideration of context or purpose is appropriate. On the other hand, recourse to context and purpose is always required, even if a provision appears to be clear and unambiguous, because it may reveal otherwise inappropriate ambiguities. Furthermore, on the one hand, the court states that the modern approach and the unified textual, contextual, and purposive approach (which I think are the same) are applicable to all statutes, including tax statutes. On the other hand, the court suggests that tax provisions are often different from other statutes because of their precision and detail.

These contradictions are not new. They have been evident in the Supreme Court's decisions since 1995. They were apparent in *Canada Trustco* and *Mathew*. The surprising thing about the *Placer Dome* decision is that, because the comments on statutory interpretation are confined to three short paragraphs, the contradictions are so starkly presented. How can the court quote from *Canada Trustco* to the effect that reference to context and purpose is required in all cases to "reveal or resolve latent ambiguities" and three sentences later state that an unambiguous provision "must simply be applied"?

If the Supreme Court is saying that the interpretation of detailed and precise (or clear and unequivocal) tax provisions¹⁹ is different from that of other provisions (that is, provisions that are ambiguous), then the courts are required to engage in a meaningless inquiry into whether a provision is clear, in which case it must simply be applied (or at least greater emphasis must be placed on literal meaning), or ambiguous, in which case greater emphasis must be placed on the context and purpose of the provision. But in the real world statutory provisions are never absolutely clear. If they were, disputes about their meaning would be unlikely to end up in the Supreme Court. As modern linguistic studies show convincingly, the meaning of all language is indeterminate apart from the context in which the language is used, and context includes the purpose of the words.²⁰ The courts should not be trying to decide whether the words of the tax legislation are clear or ambiguous, but should be trying to arrive at the best appropriate meaning to be given to the words in the circumstances.

Under the heading "The Burden of Proof," the court purports to clarify two points related to statutory interpretation.

19 Notice the shifts in the court's language, ranging from provisions that are "precise and detailed," "clear," or "precise and unequivocal" to provisions "[admitting] of no ambiguity." This same imprecision is found in the court's decision in *Canada Trustco*, although in that case the court also refers to "detailed and specific" and "explicit" provisions.

20 See, for example, Stephen Pinker, *The Language Instinct* (London: Penguin Books, 1994), 217.

First, the court clarifies that there is no burden of proof with respect to the interpretation of a statute, despite its statement in the *Bon-Secours* case that

[t]he burden of proof thus rests with the tax department in the case of a provision imposing a tax obligation and with the taxpayer in the case of a provision creating a tax exemption.²¹

As the court explains, this earlier statement related, not to the burden of proof, but to the use of presumptions to resolve ambiguities in legislative language under a literal or strict construction approach to interpretation.²²

Second, the court attempts to clarify statements it made in *Canada Trustco* concerning the burden of proof under the general anti-avoidance rule (GAAR). The court held that under subsection 245(4), the government has the onus to show that the purpose of the relevant provisions would be abused or frustrated by the transactions. In *Placer Dome*, the court indicates that this approach is not applicable to tax provisions that are ambiguous. The statement in *Canada Trustco* applies “where the taxpayer has complied with the letter of the law” or where the taxpayer’s “transaction falls within the four corners of a tax provision.”²³

In this regard, the court in *Placer Dome* repeats the same fundamental inconsistency in its reasoning that is found in *Canada Trustco*: all statutes, including tax statutes, must be given a textual, contextual, and purposive interpretation; however, tax provisions (other than the GAAR) are to be applied literally. Only under the GAAR are considerations of context and legislative purpose relevant.²⁴

CONCLUSION

What is it about the interpretation of tax statutes that the Supreme Court of Canada finds so difficult to understand and express in clear, simple language? The proper approach seems quite straightforward and appears to be reasonably settled in the United Kingdom and the United States: tax legislation should be interpreted giving due weight to the text (the meaning of the words) of the relevant provision in the context of the statute as a whole, which includes the purpose of the relevant provision and the entire statute. In this respect, tax legislation is no different from any other kind of legislation.

21 *Supra* note 7, at 15.

22 Under a literal or strict approach, the words of a statutory provision must be given their literal meaning. If the literal meaning is ambiguous, the ambiguity can be resolved only by means of a presumption because recourse to considerations other than the text, such as context and purpose, is not permitted.

23 *Supra* note 1, at paragraph 28.

24 For more detailed discussion, see Arnold, *supra* note 3, at 179-82.

Two further points should be noted. First, literal interpretation (interpretation by reference exclusively to the ordinary meaning of the words of the legislation) is inappropriate and a thing of the past. Second, any information relevant to the establishment of the meaning of legislation should be taken into account by the interpreter unless there is some clear justification for excluding it.²⁵ Why would relevant information ever be ignored? It might be given little or no weight, but questions of weight should not be decided in advance. Indeed, weight is the crucial issue here. How much weight should be given to the ordinary meaning of the words involved, to contextual considerations, or to statutory purpose? Contrary to what the Supreme Court says, this cannot be decided in advance but only on a case-by-case basis, and by a careful balancing of the various elements. The most that can be said in advance is that more weight should be given to clear words than to words that are less than clear—but this is not very helpful on a practical level.

25 An example of information that should not be taken into account by a court is information that is not public, such as internal government documents.