NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

DEPARTMENT OF REVENUE OF OREGON *v.* ACF INDUSTRIES, INC., ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 92–74. Argued November 8, 1993—Decided January 24, 1994

The Railroad Revitalization and Regulatory Reform Act of 1976, in relevant part, forbids States to impose (1) higher property tax rates and assessment ratios upon ``rail transportation property'' than upon ``other commercial and industrial property,'' 49 U. S. C. §§11503(b)(1)–(3), and (2) ``another tax that discriminates against a rail carrier providing transportation,'' §11503(b)(4). Oregon exempts from its ad valorem property tax various classes of business personal property, but not railroad cars owned by respondent companies. They filed suit in the District Court, alleging that the tax violates §11503(b)(4) because it exempts certain classes of commercial property from taxation while taxing railroad cars in full. Both the District Court and the Court of Appeals agreed that discriminatory property tax exemptions may be challenged under subsection (b)(4). However, the Court of Appeals reversed the lower court's finding that Oregon's tax complied with the provision, holding instead that respondents were entitled to the same exemption enjoyed by preferred property owners.

Held: Section 11503 does not limit the States' discretion to exempt nonrailroad property, but not railroad property, from generally applicable ad valorem property taxes. Pp. 5–15.

(a) Respondents' position that ``another tax that discriminates against a rail carrier'' is a residual category designed to reach any discriminatory state tax, including property taxes, not covered by subsections (b)(1)–(3) is plausible only if subsection (b)(4) is read in isolation. However,

the structure of §11503 as a whole supports the view that subsection (b)(4) does not speak to property tax exemptions. ``[C]ommercial and industrial property,'' which serves as the comparison class for measuring property tax discrimination under subsections (b)(1)–(3), is defined in subsection (a)(4) as ``property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to commercial or industrial use and subject to a property tax levy.'' The interplay between subsections (b)(1)–(3) and this definition is central to subsection (b)(4)'s interpretation. For example, Congress' exclusion of agricultural land from the definition demonstrates its intent to permit the States to tax railroad property at a higher rate than agricultural land, notwithstanding subsection (b)(3)'s general prohibition of rate discrimination. To consider such a tax ``another tax'' under subsection (b)(4) would subvert the statutory plan by reading subsection (b)(4) to prohibit what subsection (b)(3), in conjunction with subsection (a)(4), was designed to allow. The result would contravene the elemental canon of construction that a statute should be interpreted so as not to render one part inoperative. Pp. 5–7.

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(b) The phrase ``subject to a property tax levy'' further qualifies the subsection (a)(4) definition. When used elsewhere in §11503, that phrase means property that is taxed; and since identical words used in different parts of the same Act are intended to have the same meaning, the phrase must carry the same meaning in subsection (a)(4), *Sorenson* v. *Secretary of Treasury,* 475 U. S. 851, 860. Thus, exempt property is not part of the comparison class. It would be illogical to conclude that Congress, having allowed States to grant property tax exemptions in subsections (b)(1)–(3), would turn around and nullify its own choice in subsection (b)(4). Pp. 7–9.

(c) Other considerations reinforce the foregoing construction of the statute. Section §11503's silence on the subject of tax exemptions—in light of the explicit prohibition of tax rate and assessment ratio discrimination—reflects a determination to permit the States to leave their exemptions in place. Principles of federalism compel this view, for a statute is interpreted to pre-empt traditional state powers only if that result is the clear and manifest purpose of Congress. The statute's legislative history casts no doubt upon this interpretation. Nor does the interpretation lead to an anomalous result. Since railroads are not the only commercial entities subject to Oregon's tax, it need not be decided whether subsection (b)(4) would prohibit a tax that did single out railroad property. And since it is within Congress' sound discretion to weigh the benefit of preserving some exemptions against the benefit of protecting rail carriers from every tax scheme that favors some nonrailroad property, the result reached here is not so bizarre that Congress could not have intended it. See *Demarest* v. *Manspeaker,* 498 U. S. 184, 191. Pp. 10–14.

961 F. 2d 813, reversed and remanded.

KENNEDY, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and BLACKMUN, O'CONNOR, SCALIA, SOUTER, THOMAS, and GINSBURG, JJ., joined. STEVENS, J., filed a dissenting opinion.