Opinion

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Baker City, Oregon

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GUEST EDITORIAL

Court decision has effect on taxes

Editorial from The (Bend) Bulletin:

Once upon a time, a bill passed by the Oregon Legislature that raised revenue may have been described as a "bill for raising revenue." Not anymore.

Those days are gone — so says the Oregon Tax Court in its recent ruling Boquist v. Department of Revenue. The court favored a narrow interpretation of the term "bill for raising revenue," limiting its application to bills that directly levy taxes in the strictest sense.

If the Legislature changed a tax so more people or businesses are taxed, would that be a bill for raising revenue? Maybe not, the court said.

What if a bill increased revenue coming in to the state, but did not do that as the bill's primary purpose? That also may not be a bill for raising revenue.

What if the Legislature fundamentally transformed the way taxable income is calculated for businesses? Business taxes are now calculated by first subtracting expenses from business income. Would a bill to redefine taxable income to mean gross receipts, without any deductions or exclusions, be a bill to raise revenue? Maybe not that one, either.

Those legal gymnastics have a significant impact on Oregon taxpayers. The Oregon Constitution has two important provisions that were aimed at controlling the way Oregonians are taxed. First, the Constitution requires bills for raising revenue to originate in the House of Representatives. Second, voters passed a constitutional amendment in 1996 that says that three-fifths of all members elected to each House shall be necessary to pass bills for raising revenue. But if the definition of a bill for raising revenue is so narrow, those protections are effectively meaningless.

The court's decision in this case is not the problem. The decision studiously followed decades of legal precedent. Oregon law is what needs to be changed. A bill for raising revenue should simply be a bill that raises revenue.

Your views

Herald should use caution in selecting outside materials

I am responding to the editorial "Trump a symbol for hate groups" by Trudy Rubin, which appeared in the March 25 edition of the Herald .Our nation is being torn apart by dissension, extreme and vicious dissension, which is being fed by fast-growing factions on the far left and the far right. It seems that the folks who populate these factions cannot tolerate ideas that differ from their own ideas or the people who hold these differing ideas. To the point that they, the ideas and the folks that hold them, must be destroyed.

Thus we see writings in newspapers, magazines and other media which distort the word positions of those being disagreed with. Meetings and public hearings are being disrupted. People attending rallies and other outdoor events are being assaulted and sometimes even killed. Viscous attacks from the far left and the far right are continuing at a seemingly faster and faster pace.

When a publication such as a newspaper publishes that which distorts the truth and fans the flames of dissension, it becomes a purveyor of these distortions and a contributor to the problems our nation is facing. The editorial to which I refer is such a writing and the Herald, by publishing this editorial, has become a purveyor of these distortions and a contributor to the problem.

I urge the Baker City Herald to use great care in selecting outside material to publish. You are in a position to do much good or cause great harm.

Sig Siefkes
Baker City

Walden and colleagues should work to deal with warming

Recently Rep. Greg Walden sent out a bulletin with the title "A path forward on climate change," in which he announced that Congress will take up the issue. "Let me be clear: climate change is real," he wrote.

Yet the Trump administration, with the backing of Congress, withdrew the U.S. from the Paris Accord, to which almost every country in the world is signatory. The Trump administration, instead of leaving carbon fuels in the ground, is trying to make the U.S. into the world's leading supplier of fossil fuels, including issuing permits for offshore drilling.

The March 29 issue of the Baker City Herald contains in its Section B a powerful essay by Pat Wray attacking President Trump for withdrawing the U.S. from the Paris Accord in spite of overwhelming scientific evidence. Wray writes that the Accord, "could not stand against the pure, aggressive ignorance embodied by the amoral autocrat (Trump) whose personal understanding of the concepts of good and bad, of success and failure, revolve around money." Wray criticizes Trump for having "systematically defunded and dismantled government agencies designed to protect our environment." Bottom line, "continuation of global warming may well result in the extinction of humanity."

I hope that Rep. Walden and his Republican colleagues will work across the aisle with Democrats to save humanity.

Gary Dielman

Letters to the editor

- We welcome letters on any issue of public interest. Customer complaints about specific businesses will not be printed.
- The Baker City Herald will not knowingly print false or misleading claims. However, we cannot verify the accuracy of all statements in letters to the editor.
- Letters are limited to 350 words; longer letters will be edited for length. Writers are limited to one letter every 15 days.
- The writer must sign the letter and include an address and phone number (for verification only). Letters that do not include this information cannot be published.
- Letters will be edited for brevity, grammar, taste and legal reasons.

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GUEST EDITORIAL

Editorial from The Los Angeles Times:

The Supreme Court on Wednesday heard arguments about whether federal courts should be required to defer to the executive branch's interpretation of its own rules, if that interpretation is reasonable. This may sound like a technical, legalistic dispute — and it is — but the wrong decision could make it vastly harder for the federal government to protect the public.

If courts start to second-guess executive-branch agencies' reasonable interpretation of their own rules, it will be easier for business and other interests to undermine efforts to protect the environment, keep workplaces safe and promote public health. Deference to agency interpretations also makes sense because those charged with enforcing federal laws typically possess more expertise than federal judges and can set national standards.

The case argued on Wednesday grows out of a challenge by James L. Kisor, a Marine veteran of the Vietnam War, to a decision by the Department of Veterans Affairs to limit the disability payments he could collect for post-traumatic stress disorder.

The dispute turned on an interpretation of language in a VA regulation. In ruling against Kisor, the U.S. Court of Appeals for the Federal Circuit concluded that, even though the rule in question was open to several meanings, the court would defer to the interpretation made by the Board of Veterans Appeals.

In deciding to defer, the appeals court followed a 1997 Supreme Court decision, Auer vs. Robbins, in which the justices unanimously held that an agency's interpretation of its own regulations "is controlling unless plainly erroneous or inconsistent with the regulations being interpreted."

Kisor's lawyer asked the Supreme Court to overturn the Auer decision and a 1945 decision, Bowles vs. Seminole Rock & Sand Co., on which it relied. Some justices were receptive. Justice Neil M. Gorsuch suggested that having judges, not agency officials, interpret ambiguous regulations would better serve the interests of "the least and most vulnerable among us, like the immigrant, like the veteran, who may not be the most popular or able to capture an agency the way many regulated entities can today."

But Justice Stephen Breyer countered that overruling Auer would look like a "judicial power grab" and would involve judges in interpreting from scratch "hundreds of thousands, possibly millions of interpretive regulations," some based on technical or scientific considerations with which judges aren't familiar. Breyer also noted that, under the Auer decision as it has been recently interpreted, judges can set aside regulations that are unclear, "unreasonable" or "inappropriately considered."

Similarly pragmatic, Solicitor Gen. Noel Francisco argued that it's better to have a single, "more politically accountable" agency than hundreds of district courts making the call when there are multiple reasonable interpretations of a regulation.

Gorsuch suggested that always putting judges in the driver's seat would benefit vulnerable people. But it's far more likely that allowing judges to substitute their own interpretation for that of an agency — even if the court accepts that the agency's interpretation is reasonable — will weaken regulatory protections and create confusion.

In asserting that the VA's interpretation of the rule should prevail in this case, we aren't saying that administrative agencies always operate in a transparent and responsive way. There would be less litigation about how to interpret ambiguous regulations if agencies revised them to remove confusion. Congress also is at fault for enacting vague or open-ended statutes that encourage improvisation by agencies, just as it bears the blame for inaction on important issues (such as immigration) that tempts presidents to overreach with executive action.

Finally, the Administrative Procedure Act provides for a process by which many regulations don't take effect until after notice and a period of public comment. It's true that not all legal determinations by regulatory agencies are preceded by notice and comment. Some arise in adjudication of claims such as Kisor's. But to the maximum extent possible, agencies should proactively publish their regulations — and their interpretations of those regulations. That's a better cure for confusion than a "power grab" by the courts.

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Baker City administration: 541-523-6541. Fred Warner Jr., city manager; Dustin Newman, police chief; John Clark, fire chief; Michelle Owen, public works director.

Baker County Commission: Baker County Courthouse 1995 3rd St., Baker City, OR 97814; 541-523-8200. Meets the first and third Wednesdays at 9 a.m.; Bill Harvey (chair), Mark Bennett, Bruce Nichols.

Baker County departments: 541-523-8200. Travis Ash, sheriff; Jeff Smith, roadmaster; Matt Shirtcliff, district attorney; Alice Durflinger, county treasurer; Cindy Carpenter, county clerk; Kerry Savage, county assessor.