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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 Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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CSX TRANSPORTATION, INC. *v.* ALABAMA DEPARTMENT OF REVENUE ET AL.

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

No. 09–520. Argued November 10, 2010—Decided February 22, 2011

Petitioner (CSX) is an interstate rail carrier that operates, and pays taxes, in Alabama. The State imposes sales and use taxes on railroads when they purchase or consume diesel fuel, but exempts their main competitors—interstate motor and water carriers. CSX sued respondents, the Alabama Department of Revenue and its Commissioner (Alabama), claiming that this tax scheme discriminates against railroads in violation of the Railroad Revitalization and Regulatory Reform Act of 1976 (4–R Act or Act), which bars four forms of discriminatory taxation, 49 U. S. C. §11501(b). Three of the delineated prohibitions deal with property taxes, §§11501(b)(1)–(3), and the fourth is a catch-all provision that forbids a State to "[i]mpose another tax that discriminates against a rail carrier," §11501(b)(4). The District Court dismissed CSX's suit as not cognizable under the 4–R Act on the basis of this Court's decision in *Department of Revenue of Ore.* v. *ACF Industries, Inc.*, 510 U. S. 332, and the Eleventh Circuit affirmed.

Held: CSX may challenge Alabama's sales and use taxes under §11501(b)(4). Pp. 5–19.

(a) CSX is challenging "another tax" within subsection (b)(4)'s plain meaning. The Act does not define "tax." Thus, this Court looks to the word's ordinary definition, which is expansive. A State seeking to raise revenue may choose among multiple forms of taxation on property, income, transactions, or activities. "[A]nother tax" is thus best understood to encompass any tax a State might impose, on any asset or transaction, except the property taxes already addressed in subsections (b)(1)–(3). There is no reason to interpret subsection (b)(4) as applying only to the gross-receipts taxes that some States imposed

in lieu of property taxes at the time of the Act's passage. Moreover, CSX's complaint, contrary to the Eleventh Circuit's apparent view, does protest Alabama's imposition of taxes on its fuel. The exemptions the State has given may play a central role in CSX's argument, but the complaint's essential subject remains the taxes imposed.

The key question thus becomes whether a tax might be said to "discriminate" against a railroad under subsection (b)(4) where the State has granted exemptions from the tax to other entities (here, the railroad's competitors). Because the statute does not define "discriminates," the Court again looks to the term's ordinary meaning, which is to fail to treat all persons equally when no reasonable distinction can be found between those favored and those not favored. To charge one group of taxpayers a 2% rate and another group a 4% rate, if the groups are the same in all relevant respects, is to discriminate against the latter. That discrimination continues if the favored group's rate goes down to 0%, which is all an exemption is. To say that such a tax does not "discriminate" is to adopt a definition at odds with the word's natural meaning. This Court has repeatedly recognized that tax schemes with exemptions may be discriminatory. See, *e.g., Davis* v. *Michigan Department of Treasury*, 489 U. S. 803. And even *Department of Revenue of Ore.* v. *ACF Industries, Inc.*, 510 U. S. 332, on which the Eleventh Circuit heavily relied in dismissing CSX's suit, made clear that tax exemptions "could be a variant of tax discrimination." *Id.,* at 343. In addition, the statute's prohibition of discrimination applies regardless whether the favored entities are interstate or local. The distinctions drawn in the statute are not between interstate and local actors, as Alabama suggests, but between railroads and all other actors, whether interstate or local. Pp. 5–10.

(b) *ACF Industries* does not require a different result. There, the Court held that railroads could not contest property tax exemptions under subsection (b)(4), reasoning that it would be illogical to permit such a challenge when subsections (b)(1)–(3)—the §11501 provisions specifically addressing property taxes—permitted States to grant property tax exemptions. Such a reading would "subvert the statutory plan" and "contravene the 'elementary canon of construction that a statute should be interpreted so as not to render one part inoperative.' " 510 U. S., at 340. Contrary to Alabama's argument, this structural analysis does not apply here. Subsections (b)(1)–(3) specifically allow property tax exemptions, but neither they nor any other provision of the Act speaks to non-property exemptions like those at issue here. Because Congress has expressed no intent to "allo[w] the States to grant" non-property exemptions, *id.,* at 343, reading subsection (b)(4) to encompass them poses no danger of "nullify[ing]" a congressional policy choice or otherwise "subverting the

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statutory plan," *id.*, at 340, 343**.** Alabama's other efforts to borrow from *ACF Industries*' analysis similarly fail. Also unavailing is Alabama's argument that, even if *ACF Industries'* reasoning is limited to property tax exemptions, its holding must extend to non-property tax exemptions in order to prevent inconsistent or anomalous results in the treatment of property and non-property taxes. Pp. 11–18.

350 Fed. Appx. 318, reversed and remanded.

KAGAN, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, BREYER, ALITO, and SOTOMAYOR, JJ., joined. THOMAS, J., filed a dissenting opinion, in which GINSBURG, J., joined.