on the gross receipts derived therefrom" was held to preempt a state tax on airlines, described by the state as a personal property tax, but based on a percentage of the airline's gross income. "The manner in which the state legislature has described and categorized [the tax] cannot mask the fact that the purpose and effect of the provision are to impose a levy upon the gross receipts of airlines."[23]

But, more often than not, express preemptive language may be ambiguous or at least not free from conflicting interpretation. Thus, the Court was divided with respect to whether a provision of the Airline Deregulation Act proscribing the states from having and enforcing laws "relating to rates, routes, or services of any air carrier" applied to displace state consumer-protection laws regulating airline fare advertising.[24] Delimiting the scope of an exception in an express preemption provision can also present challenges. For example, the Immigration Control and Reform Act of 1986 (IRCA), which imposed the first comprehensive federal sanctions against employing aliens not authorized to work in the United States, preempted "any State or local law imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ unauthorized aliens."[25]

In *Chamber of Commerce of the United States v. Whiting*, a majority of the Court adopted a straightforward "plain meaning" approach to uphold a 2007 Arizona law that called for the suspension or revocation of the business licenses (including articles of incorporation and like documents) of Arizona employers found to have knowingly hired an unauthorized alien.[26] By contrast, two dissenting opinions were troubled that the Arizona sanction was far more severe than that authorized for similar violations under either federal law or state laws in force prior to IRCA. The dissents interpreted IRCA's "licensing and similar laws" language narrowly to cover only businesses that primarily recruit or refer workers for employment, or

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For examples of other express preemptive provisions, *see* Norfolk & Western Ry. v. American Train Dispatchers' Ass'n, 499 U.S. 117 (1991); Exxon Corp. v. Hunt, 475 U.S. 355 (1986). *See also* Department of Treasury v. Fabe, 508 U.S. 491 (1993).

[23] Aloha Airlines v. Director of Taxation, 464 U.S. 7, 13–14 (1983).

[24] Morales v. TWA, 504 U.S. 374 (1992). The section, 49 U.S.C. § 1305(a)(1), was held to preempt state rules on advertising. *See also* American Airlines, Inc. v. Wolens, 513 U.S. 219 (1995). *But see* Dan's City Used Cars, Inc. v. Pelkey, 569 U.S. ___, No. 12–52, slip op. (2013) (provision of Federal Aviation Administration Authorization Act of 1994 preempting state law "related to a price, route, or service of any motor carrier . . . with respect to the transportation of property" held not to preempt state laws on the disposal of towed vehicles by towing companies).

[25] 8 U.S.C. § 1324a(h)(2).

[26] Chamber of Commerce of the United States v. Whiting, 563 U.S. ___, No. 09–115, slip op. (2011).