Understanding the U.S. Supreme Court Decision Upholding PPACA

On June 28, 2012, the U.S. Supreme Court upheld the majority of the Patient Protection and Affordable Care Act. In a 5-4 decision, the Court found that the Individual Mandate is constitutional under Congress' power to tax. The only part of the law that was not upheld concerned the expansion of Medicaid – Congress ruled that the federal government could not require states to agree to overly coercive conditions to get federal funding for their Medicaid programs.

The majority opinion was drafted by Chief Justice John Roberts and joined by four other Justices. Justice Anthony Kennedy and three other Justices wrote a separate opinion, called the dissenting opinion. In that opinion, Justice Kennedy argued that the entire health care reform law should have been struck down.

The Tax Issue and Employers

This decision will have major implications for employers. The consequences an employer faces if they offer coverage inside or outside of an Exchange remains unclear, as do the residual obligations of opting out of providing insurance altogether. Most importantly, employers are questioning the tax implications of the decision. Will employers have any additional responsibilities to paying the tax penalty? There are 19 separate tax provisions that remain in PPACA. They range from new excise taxes on medical equipment to significant increases on taxes on dividends and interest income. The Act also levies taxes on Medicare premiums for individuals making more than $200,000 or couples earning more than $250,000.

Four main legal questions were at issue in this case. Let's take a closer look at what those issues are, and how the Court ruled on each.

The Anti-Injunction Act

During the oral arguments on PPACA, the Justices first addressed the question of legal standing, or whether the parties suing have the ability to bring the case before the Court at this time. Some opponents of PPACA had argued that the Anti-Injunction Act of 1867 rendered the case premature until the tax penalty goes into full effect several years from now. Uninsured persons will not begin paying the tax penalty for being uninsured until 2014, so some had argued that the Court should delay ruling on PPACA until the tax has been fully implemented. The majority opinion did not discuss this issue, but the Court effectively ruled that the case was not premature, that for the purposes of the Anti-Injunction Act the penalties were not taxes, and thus that the Anti-Injunction Act was inapplicable.

Perhaps the most confusing aspect of the decision concerns how the Court classified the Individual Mandate as a tax for one purpose, yet not a tax for a different purpose. In examining the applicability of the Anti-Injunction Act, as discussed above, the Court found that the Individual Mandate was not labeled as a tax, thus the Act did not apply. Chief Justice Roberts wrote, "It is up to Congress whether to apply the Anti-Injunction Act to any particular statute, so it makes sense to be guided by Congress's choice of label on that question. That choice does not, however, control whether an exaction is within Congress's constitutional power to tax." The Court then proceeded to find the Individual Mandate constitutional as a valid exercise of Congress' power to tax.

The Constitutionality of the Individual Mandate

The heart of the case concerned whether the Individual Mandate, that requires every individual to purchase a minimum level of insurance, is constitutional. The government argued that the Commerce Clause of the U.S. Constitution gives the federal government the authority to regulate interstate commerce, and thus gives them the power to implement PPACA. In essence, the question became whether the federal government can force individuals to purchase insurance or pay a penalty. A majority of the Court rejected this argument, but held that the Individual Mandate is a legitimate use of Congress' power to levy and collect taxes, and thus is constitutional.

The Missing Severability Clause

Federal legislation almost always includes a Severability Clause that keeps the balance of a law in force in the event that any part of the statute is declared unconstitutional or illegal. The version of PPACA that was signed into law did not include a Severability Clause. This posed a challenge for the Court because if any portion of the Act was declared unconstitutional, the lack of a Severability Clause suggests that the entirety of the Act should have been struck down. The majority opinion did not address this question. The dissenting Justices, in their separate opinion, argued that because the Individual Mandate and Medicaid expansion are, in their view, illegal, the entire Act must be struck down because of the missing Severability Clause.

The Medicaid Expansion Provision

The one portion of PPACA that was partially overturned concerned the Medicaid expansion provision. The states challenging the law argued that the provision was overly coercive in that it allowed the government to withhold all of a state's Medicaid grants unless the state agreed to certain conditions. The Court found that while Congress can attach appropriate conditions to the receipt of federal funds, Congress cannot make those conditions overly coercive. Here, the Court found, the conditions were so coercive that they passed "the point at which 'pressure turns into compulsion.'"

What Happens Next?

The Court's ruling means that the majority of PPACA will remain in full force and effect. Those individuals who do not purchase the minimum level of health insurance must pay a tax penalty beginning in 2014. Individuals who are not covered by an employer-sponsored health plan will have access to the new Exchange system, where information about various health plans will be readily accessible.

Many provisions of PPACA need to be further developed via the federal rulemaking process, and additional questions must be answered over time. What role will employers play in helping refund the medical loss ratio (MLR) rebates when a health plan overspends on the administrative costs in violation of the 10-15% limitations imposed by PPACA? How will the essential health benefit (EHB) packages impact premiums for employer-sponsored coverage? What impact will there by on grandfathered health plans?

Perhaps the biggest question that remains is how the decision will impact the upcoming elections. Chief Justice Roberts shocked many insiders by crossing party lines to find PPACA constitutional. The Republican Party will likely use this decision as an opportunity to mobilize and take the White House in November, whereas Democrats will likely use this victory to get President Obama re-elected.

Please feel free to contact me with any questions regarding tax implications, as well as the general information above.

Shoff Darby Benefits, LLC.

100 Technology Drive, Trumbull, CT 06611 - 203-445-2100