

SUPREME COURT UPHOLDS PREMIUM TAX CREDITS FOR COVERAGE PURCHASED ON FEDERAL EXCHANGES

Steven Eliach

06.2015

On June 25, the U.S. Supreme Court, in a much-anticipated ruling, essentially again upheld the Affordable Care Act (ACA), this time by upholding premium tax credits for qualifying taxpayers whether they purchase coverage through a federal or a state exchange.

At issue in *King v. Burwell* was whether taxpayers purchasing coverage through a *federal* exchange can qualify for premium tax credits under the ACA, even though language in the act states that credits are available to taxpayers who purchased coverage “on exchanges established by the state.” In a 6-3 decision, the Court found that taxpayers purchasing coverage through a federal exchange *can* qualify for subsidies.

The decision is important not just to taxpayers receiving subsidies, but also to the viability of the entire ACA. The majority of states have not set up exchanges. Therefore, the majority opinion in the Court (written by Chief Justice John Roberts) concluded:

The combination of no tax credits and an ineffective coverage requirement could well push a State’s individual insurance market into a death spiral.

[. . .] It is implausible that Congress meant the Act to operate in this manner. [. . .] Congress made the guaranteed issue and community rating requirements applicable in every State in the Nation. But those requirements only work when combined with the coverage requirement and the tax credits. So it stands to reason that Congress meant for those provisions to apply in every State as well.

For “large” employers, as defined under the ACA, the decision means that the shared responsibility provisions due to go into effect this year and next, as well as the information reporting requirements due to go into effect this year, will *indeed* go into effect.

The shared responsibility provision would have been directly affected had the ability to qualify for premium tax credits for purchasing coverage on a federal exchange *not* been upheld. How? Large employers are subject to penalties under the provision only if, among other requirements, one or more full-time employees receive a tax credit for purchasing coverage on an exchange. If such coverage could be purchased only on a state exchange, then fewer employers would have been at risk for the penalties.

Of course, numerous other ACA provisions apply to employers both large and small. If you have questions about whether you’re doing everything necessary to comply with the ACA, please contact us.