PPACA* Health Care Reform post U. S. Supreme Court Ruling

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*Patient Protection & Affordable Care Act
Ruling No. 11-393: National Federation of Independent Business vs. Sebelius, Secretary of Health and Human Services

Ruling No. 11-398: Department of Health & Human Services vs. Florida

Ruling No. 11-400: Florida vs. Department of Health & Human Services
PPACA SCOTUS Ruling 6/28/2012

Legislation’s Goal is to \textit{increase} the number of Americans covered by health insurance \textit{\& decrease} cost of care

- Ruling - upholds requirement for individuals to maintain Minimum Essential Benefits or pay a “\textit{Tax}”, not a Penalty
- Ruling - Medicaid expansion non-compliance by states \textit{cannot result in loss of existing} Federal Medicaid support
I. SCOTUS ruling does not consider whether PPACA embodies sound policies by elected leaders

II. Ruling affirms the Federal Government may “lay & collect Taxes”, while states maintain sovereign & independent powers

III. Anti Injunction Act does not apply; a tax but not part of challenge since its collection occurs with income taxes
Rationale & Results of Ruling

A. Shared Responsibility Tax - “Every reasonable construction has been resorted to in order to save the statute from unconstitutionality”

B. SCOTUS role not to protect populace from the consequences of its political choices, but to interpret and judge legislation constitutionality

C. Congressional power under Commerce Clause is limited to regulating economic activity, but not compelling it

D. Loss by states of Federal Medicaid funds due to lack of expansion compliance deemed coercive
Rationale & Results of Ruling

- Medicaid expansion beyond care for the vulnerable (pregnant woman, children, needy families & the disabled), to the entire non-elderly population below 133% of the poverty line, including childless adults

- Ruling concurs as legitimate changes to health insurance coverage standards with new tax obligations to pay for & subsidize the cost of comprehensive coverage for Americans earning below 400% of the poverty line, funded by higher income earning Americans & businesses
Change or repeal of law must responsibly occur through the political process.

Failure to purchase insurance is not unlawful; Collecting the “Tax” limited to reducing income tax refunds; Federal government not able to file lien or levy on a citizen’s property nor sue for collection.
Shared Responsibility Tax

- **2014**
  - $95 per adult in household in 2014 or
  - 1% of household income, whichever greater
- **2015**
  - $325 per adult in household or
  - 2% of household income, whichever greater
- **2016 & Forward**
  - $695 per adult in household or
  - 2.5% of household income, whichever greater

- Capped at “Bronze Plan” Premium
Shared Responsibility Tax

Examples

- 2014: $600 for a household with $60,000 income
- 2015: $1,200 for a household with $60,000 income
- 2016: $1,500 for a household with $60,000 income
- 2016: $2,085 for a household with $120,000 income
PERSONAL INCOME Taxes

2013

Over $200,000 Single & $250,000 Joint Filers

- 0.9% on excess earnings
  - Equates to $2,250 in additional taxes on joint filers at $500,000

- 3.8% on excess unearned income (Annuities, Dividends, Interest, Net Capital Gains, Rents & Royalties)
  - Equates to $3,800 in additional taxes for every $100,000 in unearned income
EMPLOYER Taxes & Penalties

- **$2,000** per employee if Coverage not offered by employer – Subtract first 30 employees

- **$3,000** per employee when:
  - Not Affordable as payroll contributions are more than 9.5% of household income
  - Actuarial value of coverage less than 60% of expenses; below “Minimum Essential Benefit”
  - Employees are covered under an Insurance Exchange receiving Federal assistance
PPACA Legislation – Unresolved

- Comparatively higher insurance cost for younger Americans with 3 tier rate structure
- Preventive Care Coverage Standards
- Pediatric Dental & Vision Benefits Coverage
- Up to 35 state Health Care Exchanges managed by Federal Government
- Premium subsidies up to 400% of poverty line; compliance with purchase of insurance
PPACA Legislation – Unresolved

- Total household income data awareness by employer to validate max 9.5% of income payroll contribution
- Medical Devices 2.3% Tax on Corporate Revenue
- Tax Deductibility of Premiums for Workers vs. After Tax Premium for Individuals
PPACA Legislation – Unresolved

- HDHP maximum $2,000 / $4,000 Deductibles
- Flex Spending Accounts (FSA) Over The Counter (OTC) requiring a prescription
- Flex Spending Accounts (FSA) “Use it or Lose it” Rule
- *Expect newly proposed Legislation, plus await Final Regulations*
PPACA Legislation Clarifications

- **2012 Reporting of Health Coverage Cost**
  - Issuance of 250 or more W-2s
  - Medical & Rx total Premium Value

- **Summary of Benefits Coverage**
  - First Open Enrollment after 9/23/2011
  - 4 pages double sided 12 point font
  - Electronic option
PPACA Legislation Clarifications

- **Medical Loss Ratio (MLR) component**
  - 80% or 85% of premiums
  - Overall insurer loss ratio; Not per Employer
  - Option to invest funds for Preventive Care

- **2013 FSA Deferral Limit**
  - Up to $2,500 Allowed per Working Spouse
  - No Offset for Grace Period rollovers
  - No Calendar Year 2013 Maximum
EMPLOYER RESPONSIBILITY

• Larger Employer Compliance
  • Defined as 50+ employees working 30+ hours per week including Fulltime equivalents (part time hours worked per month added together & divided by 120)

• Minimum Essential Benefits Standard
  • Includes Dental & Vision Benefits unless stand alone with separate payroll contributions charge
Original CBO Tax & Penalty Projections

- 3.8% Unearned Income Tax $123 Billion
- .9% Higher Income Tax $ 87 Billion
- Insurance Company Fees $ 60 Billion
- Employer Fines $ 52 Billion
- Cadillac Tax $ 32 Billion
- Brand Drug Fees $ 27 Billion
- Black Liquor Credit $ 24 Billion
- Medical Device 2.3% Tax $ 20 Billion
Original CBO Tax & Penalty Projections

- 1009 Business reporting (eliminated) $ 17 Billion
- Individuals who are Uninsured $ 17 Billion
- Itemized Deduction to 10% $ 15 Billion
- Health FSAs $2,500 limit $ 13 Billion
- Part D Rx Deduction Loss $ 5 Billion
- OTC Prescriptions $ 5 Billion
- Economic Substance (40% for under reporting) $ 5 Billion
- Tanning Salons 10% Tax $ 3 Billion
Original CBO Tax & Penalty Projections

- Comparative Effectiveness Res. $3 Billion
- HSAs Penalty to 20% $1 Billion
- Health Exec Comp $500k Cap $600 Million
- Blue Cross Loss Ratio $400 Million
  TOTAL $510 Billion

- Health Care Spending Reduction $570 Billion
  $1.08 Trillion in Revenue & Savings
  $938 Billion in Cost
  $142 Billion Deficit Reduction
Updated CBO & JTC Tax & Penalty Projections

March 2012

$1.3 Trillion Revenue & Savings
$1.252 Trillion in Cost
$48 Billion Deficit Reduction

Current 52M insured reduced to 26M
In Summary as of 2013

- Medical Devices Company Tax
- FSA max to $2,500
- Comparative Effectiveness Research Tax increase
- Income Tax increase on $200k single & $250k joint
In Summary as of 2014

- Commencement of State Insurance Exchanges
- Individual “Shared Responsibility Tax”
- Pre-existing conditions covered
- Maximum 90 day new hire Waiting Period
- 200+ employees auto enrollment
- Personal & Business tax penalties for uninsured
- $8 Billion Annual Health Insurer Tax
In Summary as of 2018

- Cadillac Tax - Inflation adjusted after 2018
  - 40% Excise Tax above $10,200 single & $27,500 family
- $720 penalty on $12k single premium
- $1,000 penalty on $30k family premium
- $11,850 and $30,950 if high risk profession
- End of Grandfathered plans
In Summary as of 2020

- Medicare Part D Doughnut hole closed
- Seniors responsible for 25% of Rx costs
- Projected 60 million covered vs. 45 million today
Thank You

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