

BREAKING NEWS: Supreme Court Upholds Affordable Care Act Tax Credits

Labor & Employment Law Update

By Kelly Haab-Tallitsch on June 25, 2015

In a major decision announced earlier today, the Supreme Court upheld the tax credits under the Affordable Care Act (ACA) in states that have a federal health care exchange, affirming the 4th Circuit's ruling in *King v. Burwell*. The Court's ruling confirms the legality of tax credits for the purchase of individual health coverage in the 37 states that have a health care exchange run by, or in partnership with, the federal government – including Illinois, Indiana, Wisconsin and Missouri.

At issue was the interpretation of language in Section 36B of the ACA authorizing individual tax credits for insurance purchased through an “exchange established by the state.” Currently, only 13 states run their own exchanges, with the remaining 37 states using the federal exchange or a state-federal partnership exchange. Plaintiffs in *King* argued that an “exchange established by the state” did not include the federal exchange – an interpretation that would have made the tax credits illegal in 37 states.

Agreeing that the phrase “an exchange established by the state” was ambiguous, the Court looked to the context and structure of the statute to determine the meaning. Finding that language used elsewhere in the ACA indicated state and federal exchanges should be treated the same, the Court interpreted Section 36B to allow tax credits for insurance purchased on any health care exchange created under the ACA.

The Court further reasoned that interpreting the language to prohibit tax credits in states with a federal exchange would be incompatible with the rest of the law and that the tax credits are necessary for the ACA to function as Congress intended. Without individual tax credits two of the ACA's three major reforms – the tax credits and the coverage requirements – would not apply. The Court further noted that certain other provisions would “make little sense” if tax credits were not available on the federal exchange.

What Does This Mean for Employers?

In affirming the individual tax credits in the 37 states with a federal exchange, the Court has indirectly upheld the **employer penalties** for failing to offer health coverage. Penalties for not offering mandated coverage are only imposed on an employer if one or more employees receive a tax credit to purchase individual coverage on the exchange. Employers should continue to analyze their risk of penalty exposure and manage their benefit offerings accordingly.

Perhaps more importantly, the Court's ruling in *King v. Burwell* further illustrates the staying power of the ACA and decreases the likelihood of relief for employers any time soon.

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