Supreme Court Upholds the Individual Mandate as a Tax

The Supreme Court today did what it was (narrowly) expected to do, but for a reason few saw coming. In a razor-close decision, with votes split almost entirely along ideological lines, the Court upheld the federal health reform law's individual mandate and saved the signature achievement of the Obama Administration's first term.

The Court concluded that the mandate cannot be justified under the Constitution's Commerce Clause, but that the mandate survives as merely a tax law, squarely within Congressional power to levy taxes for the general welfare.

The vote was 5-4, with the Court's four progressives - Justices Breyer, Ginsburg, Sotomayor and Kagan, the latter two having been appointed by the President - each voting to uphold the mandate, and four of the Court's conservatives - Justices Thomas, Scalia, Alito and Kennedy - all seeing the mandate as unconstitutional. The swing vote turned out to be Chief Justice Roberts, who sided with the Court's progressives.

So, here we go. Buckle your seatbelt, boys and girls, because the health reform foot is now heavy on the gas pedal. The ramp-up to 2014's implementation of the law's centerpiece provisions - the individual mandate, the state-based insurance exchanges, and employers' shared responsibility requirements - will accelerate substantially from this point forward.

We'll have a more detailed assessment of the Court's opinion, and what it means, in another Health Reform Advisory Practice Alert. Look for the Alert in the hours to come. Also, we're hosting a complimentary webcast on the Court's decision at 1:00 p.m. Central Time on Friday, June 29, 2012. We hope you'll join us for that. Click to register for the webcast, which is titled "The Supreme Court and the Health Reform Law: The Day After."
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