

Heartland Institute Reacts to Supreme Court Taking Obamacare Case

The U.S. Supreme Court is taking on the major issues raised in litigation against the Patient Protection and Affordable Care Act, also known as Obamacare, issuing an order today granting review in three such cases. Oral argument is expected in March, with a decision by the Court by the end of June.

The Court will address the preliminary issue, whether a federal law prohibiting review of tax laws before a tax is imposed bars review here, since Obamacare taxes don't go into effect until 2014. It also will address the constitutionality of the individual mandate, which requires all Americans to purchase private health insurance or be fined. Last, the Court will consider "severability." Legislation typically includes a severability clause, which provides the balance of a law remains intact if one part of it is found unconstitutional. The Obamacare law does not include such a clause, presenting the question whether the entire law would be invalid if only the individual mandate falls.

The following statements from legal and health care experts at The Heartland Institute may be used for attribution. For more comments, refer to the contact information below. To book a Heartland guest on your program, please contact Tammy Nash at tnash@heartland.org and 312/377-4000. After regular business hours, contact Jim Lakely at jlakely@heartland.org and 312/731-9364.

"It is not an overstatement to say the fate of our Republic is at stake in the Obamacare cases.

"This case is probably the most important one to come before the Supreme Court in 80 or more years. Obamacare is, of course, epic in its proportions and amounts to a massive federal takeover of health care in the United States.

"But more broadly, the case presents the issue whether federal power has any limits at all. The Constitution empowers the federal government to 'regulate' commerce among states, but the Court has virtually eliminated the distinction between interstate and local commercial affairs. The Court has the opportunity in these cases to restore the distinction intended by the Founders.

"Despite the attention received by the individual mandate, if the mandate is invalidated, the severability clause issue takes on enhanced importance. Invalidating the mandate but severing it – leaving the rest of the law in place – will cause great uncertainty because the federal government has said in court in these cases the law cannot financially stand without the mandates.

"Thus there is the possibility uncertainty will abound, depending on how the Court rules, and Congress may not be in a position to resolve it so close to the November 2012

election. States now preparing to comply with Obamacare may not get the answers they need.”

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“We all knew President Obama’s health care law would end up at the Supreme Court. Now that it’s clear the justices will weigh in on the many constitutional questions swirling around the law in the spring, there is absolutely no reason states should continue implementing this controversial and unpopular law before the case is heard and properly reviewed. Too many questions remain about what portions of the law could be struck down, and every dime spent on the implementation of the law is one that taxpayers will never get back.

“Responsible legislators, administrators, and governors ought to remain patient and see what the Court decides before proceeding.”

Benjamin Domenech

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