Kilpatrick

JUNE 28, 2012

Supreme Court Recap

As I reported earlier this morning, the US Supreme Court voted to uphold the entire Affordable Care Act. A few weeks ago, I reported that I thought the vote would be 6-3, but the vote was a much closer 5-4 decision, and the legal basis of the decision was different than expected. The key items from the ruling are as follows:

Individual Mandate: On a 5-4 decision, Chief Justice John Roberts joins Ruth Bader Ginsburg, Stephen Breyer, Sonia Sotomayor and Elena Kagan to hold that the mandate is constitutional under Congresses taxing power. In essence, if someone refuses to purchase insurance, a tax is imposed under the ACA and that is a tax that Congress can impose under its taxing power. While some justices would have also upheld the mandate under the Commerce Clause, there were not five votes to uphold it on those grounds. However, that did not matter as the mandate survives as a tax. For those that followed this case, the tax argument was the Administration's back-up argument. The first argument the Administration advanced was the Commerce Clause argument, while the back-up was the tax argument.

Rest of Affordable Care Act: Because the individual mandate is upheld as a tax, there was no need for the court to review any further questions for other parts of the Act, or to rule on the severability issues. Everything was upheld, making these issues moot.

Medicaid Issue: This issue related to a requirement that the states expand their Medicaid eligibility or risk losing Federal funding. On this issue, the Court held that this is constitutional, but only to the extent that it relates to new funds. The law could not be read as affecting funds that Congress already promised.

The full opinion can be viewed at http://www.supremecourt.gov/opinions/11pdf/11-393c3a2.pdf

We will be discussing this case as part of a future Legal Alert, and during our annual health and welfare planning session which will be announced tomorrow.