BENEFITS BUZZ

JULY 2021

Supreme Court Rejects Challenge to Individual Mandate

On June 17, 2021, the U.S. Supreme Court rejected a lawsuit challenging the constitutionality of the Affordable Care Act's (ACA) individual mandate in a 7-2 ruling.

This lawsuit was filed in 2018 by 18 states as a result of the 2017 tax reform law that eliminated the individual mandate penalty. In 2012, the U.S. Supreme Court had upheld the ACA on the basis that the individual mandate is a valid tax. With the penalty's elimination, the appeals court in this case determined that the individual mandate is no longer valid under the U.S. Constitution.

The Supreme Court's Ruling

The Supreme Court determined that the plaintiffs in this case did not have standing to sue, meaning that they have not shown that they suffered any injury as a result of the elimination of the individual mandate penalty and, therefore, do not have a legal right to sue. As a result, the ACA as it exists today will remain in place.

According to the Court, allowing a lawsuit "attack[ing] an unenforceable statutory provision [to continue] would allow a federal court to issue what would amount to 'an advisory opinion without the possibility of any judicial relief.'"

The Court did not make any determinations on any other issue in the case, including the validity of the individual mandate or whether the rest of the ACA can be severed from the individual mandate provision. However, this case is now concluded and the ACA will remain in place.

No Changes Expected for 2021 ACA Reporting

As a result of the Supreme Court's ruling, all existing ACA provisions—including the pay or play rules and related reporting requirements—remain in place. This means that employers must continue to comply with all applicable requirements, or may face penalties for any failure to comply.

Applicable large employers (ALEs), as well as employers that sponsor self-insured plans, must report health coverage information to the IRS and to their employees annually, as applicable, under Internal Revenue Code (Code) Sections 6055 and 6056.In late May, the IRS released draft 2021 forms for reporting under Code Sections 6055 and 6056. Draft instructions have not yet been released.

No substantive changes were made to the draft forms for 2021 reporting. As a result, the information required to be reported is expected to remain the same as it was for 2020.

- **2021 draft Forms 1094-B and 1095-B** are draft versions of forms that will be used by self-insured plan sponsors that are not ALEs to report under Section 6055.
- **2021 draft Forms 1094-C and 1095-C** are draft versions of forms that will be used by ALEs to report under Section 6056, as well as for combined Section 6055 and 6056 reporting by ALEs who sponsor self-insured plans.

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