

How Will the 2015 Supreme Court Decisions Affect You?

Content provided by The Advisors Forum; Edited by James W. Garrett, Esq.

November 2015

While approximately 10,000 cases are appealed to the U.S. Supreme Court each year, only 75 to 80 make it to oral argument. Of those 75 to 80 cases, there are usually only a few that grab the media's attention. This newsletter highlights two landmark decisions handed down in 2015 – *King v. Burrell* and *Obergefell v. Hodges* – that could affect how you are pay for healthcare and plan your estate.

***King v. Burrell* – Obamacare Subsidies Are Available to All**

Legal Issue: Can the IRS extend tax-credit subsidies to healthcare coverage purchased through exchanges established by the federal government under provisions of the Patient Protection and Affordable Care Act (the “Affordable Care Act,” or “ACA,” commonly referred to as “Obamacare”)?

Decision, 6 – 3: Yes, Obamacare subsidies are available to individuals who obtain their healthcare coverage through either a state or a federal exchange.

Buried in the 2,700-page Affordable Care Act is a provision stating that tax-credit subsidies are available to individuals who sign up for healthcare coverage “through an exchange established by the state.” After the ACA was passed, 34 states opted not to establish their own healthcare exchanges, leaving their residents to use the federally established healthcare exchange to obtain their coverage. The *King* case challenged the validity of federal subsidies given to these residents since the ACA appeared to limit subsidies only to individuals who relied on a state-established exchange. Writing for the majority, Chief Justice John Roberts stated, “We doubt that is what Congress meant to do.” Thus, the Supreme Court upheld the validity of subsidies given to residents of the 34 states that use the federal healthcare exchange.

Planning Tip: While there are still several cases challenging parts of the ACA winding their way through the U.S. court system, the *King* case was a linchpin to upholding the law. Nonetheless, with not one Republican voting for Obamacare and the 2016 presidential

election fast approaching, you need to be aware that the Obamacare debate will not be disappearing any time soon but will continue to be hashed out in the political arena.

***Obergefell v. Hodges* – Same Sex Marriage is Legal Everywhere in the United States**

Legal Issue: Does the Fourteenth Amendment of the U.S. Constitution require a state to license so-called same-sex marriages and recognize those same sex marriages that are legally licensed and performed in another state?

Decision, 5 – 4: Yes, these marriages are legal and must be recognized everywhere in the United States.

The *Obergefell* case involved the consolidation of four cases that challenged state-banned recognition of co-called same-sex marriages in Kentucky, Michigan, Ohio and Tennessee. The Supreme Court had three choices to make: (1) overturn state bans; (2) uphold state bans; or (3) uphold state bans but require states to recognize marriages legally performed in other states. Relying on the Due Process and Equal Protection Clauses of the Fourteenth Amendment, the Court held that marriage is a fundamental liberty and denying the right of same-sex couples to wed would deny them equal protection under the law.

Planning Tip: Now like traditional couples, same-sex couples who are considering marriage need to determine whether it is in their best interests to enter into prenuptial agreements. Further, same-sex couples who are already married need to update their estate planning documents to reflect the marriage relationship.

The Bottom Line on the *King* and *Obergefell* Decisions

Although the latest session of the Supreme Court has come to an end, how the *King* and *Obergefell* decisions will affect your current and future tax planning, financial planning, premarital and postmarital planning and estate planning has just begun. We are available to answer your questions about these landmark cases and how they will affect you and your family.