

Legal Alert

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AFFORDABLE CARE ACT SUBSIDIES UPHELD BY ROBERTS MAJORITY IN *KING V. BURWELL*

The United States Supreme Court issued a historic opinion today, upholding insurance premium subsidies in states with Federal health insurance exchanges. The Affordable Care Act (the “ACA”) provides tax credits for taxpayers who enroll in an insurance plan through “an Exchange established *by the State*.” The plaintiffs in *King v. Burwell* argued that the language of the statute—“by the state”—should be interpreted literally and narrowly by the Internal Revenue Service to prohibit individuals who reside in states with Federal exchanges from receiving the tax credits provided by the ACA. Federal exchanges currently operate in 27 states across the nation, including Arizona.

In a majority opinion authored by Chief Justice Roberts, the Court looked beyond the facial language of the statute’s text to the intent of the law. Chief Justice Roberts concluded that the ACA’s context and structure demonstrated that Congress intended to allow tax credits for individuals who purchase insurance on *any* exchange, whether established by a state or the Federal government. Justices Kennedy, Ginsburg, Breyer, Sotomayor, and Kagan joined in the majority opinion. Justice Scalia authored a scathing dissent in which he referred to portions of the majority’s analysis as “pure applesauce.” Justices Thomas and Alito joined in the dissent.

In practical terms, the Supreme Court’s decision means that the state and Federal exchanges will continue to operate normally, and that the 7.5 million Americans who receive tax credits in states with Federal exchanges will continue to receive the subsidies they enjoy under the act. This short [video](#) explains how a different result in today’s opinion could have caused a “Death Spiral” for the ACA.

For more on the decision, check out this [article](#), which also contains an embedded copy of the opinion.

Questions about Health Law or the Affordable Care Act? Gammage & Burnham has an extensive practice in health law, and we stand ready to advise and assist you with your healthcare transaction and regulatory needs.