



Insight

OK, I'm Confused

DOUGLAS HOLTZ-EAKIN | OCTOBER 14, 2010

How am I supposed to reconcile the following actions?

1. President Obama's oath of office says:

"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

I'm assuming that included in "protect and defend the Constitution" is obey laws as passed by Congress and signed by the President, right?

2. The newly-passed Patient Protection and Affordable Care Act includes this language (*emphasis added*):

SEC. 9002. INCLUSION OF COST OF EMPLOYER-SPONSORED HEALTH COVERAGE ON W-2.

(a) IN GENERAL.—Section 6051(a) of the Internal Revenue Code of 1986 (relating to receipts for employees) is amended by striking "and" at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting ", and", and by adding after paragraph (13) the following new paragraph:

"(14) the aggregate cost (determined under rules similar to the rules of section 4980B(f)(4)) of applicable employer-sponsored coverage (as defined in section 4980I(d)(1)), except that this paragraph shall not apply to –

"(A) coverage to which paragraphs (11) and (12) apply,

or

"(B) the amount of any salary reduction contributions to a flexible spending arrangement (within the meaning of section 125)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

Nevertheless, an IRS press release announced: "Although reporting the cost of coverage will be optional with respect to 2011, the IRS continues to stress that the amounts reportable are not taxable." And "Included in the Affordable Care Act passed by Congress in March, the new reporting requirement is intended to be informational only, and to provide employees with greater transparency into overall health care costs."

How did 2011 become optional? Is it not after December 31, 2010?

3. The Wall Street Journal reported: "Under the Clear Air Act, the EPA's national office chooses priorities, but

state regulators run the relevant programs and issue the necessary permits. When orders from HQ change, as with carbon over the last year, states get three years to revise their ‘implementation plans.’ But in August, Ms. Jackson decided that the law posed too long a climate wait and decreed that if these plans aren’t updated by an arbitrary January 2011 deadline, her office will override the states and run the carbon permitting process itself.”

I’m just a simple economist. Doesn’t the law matter anymore?

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