

Summary: National Federation of Independent Business v. Sebelius¹
Key Majority Holdings

- The Anti-Injunction Act does not bar the Court's deciding the lawsuit at this time (all nine Justices).
 - Under the Anti-Injunction Act, in order to challenge a tax, the taxpayer must pay it first and then sue for a refund.
 - Congress did not intend the penalty assessed for failing to obtain health coverage to be treated as a "tax" for purposes of the Anti-Injunction Act.
- The "individual mandate" to obtain health coverage is constitutional under Congress' power to levy taxes (Roberts, Breyer, Kagan, Ginsburg and Sotomayor).²
 - The shared responsibility payment that is triggered by failure to comply with the individual mandate "looks like a tax":
 - Collected and administered by IRS.
 - Reported on and paid when filing federal tax returns.
 - Does not apply to people who are not required to file tax returns because their income is below the filing threshold.
 - Calculated based on factors such as amount of taxable income, number of dependents, and tax filing status.
 - Produces at least some revenue for the government.
 - Furthermore, the shared responsibility payment is not a penalty for an unlawful act:
 - Amount due can never be more than the price of insurance.
 - Liability does not depend on whether failure to purchase insurance is intentional.
 - IRS may not collect through punitive means such as criminal prosecution.

¹ *National Federation of Independent Business, et al. v. Kathleen Sebelius, Secretary of Health and Human Services, et al.; Department of Health and Human Services, et al. v. Florida, et al.; Florida, et al. v. Department of Health and Human Services, et al*, 567 U.S. __ (2012). Found at <http://www.supremecourt.gov/opinions/11pdf/11-393c3a2.pdf>. Decided June 28, 2012.

² A separate majority – Roberts, Scalia, Kennedy, Thomas, and Alito – found that the mandate was not a constitutional exercise of the Constitution's Commerce Clause or Necessary and Proper Clause. This majority conclusion will continue to be the subject of extensive analysis for its potential future impact but does not affect the "bottom line" result concerning the constitutionality of the individual mandate. In addition, a minority of four justices – Scalia, Kennedy, Thomas and Alito – found the entire law unconstitutional on the ground that, once they found the mandate unconstitutional, the other portions of the law were not severable.

- While Congress may expand Medicaid (to 133 percent of the federal poverty level for all nonelderly citizens and eligible legal residents), it may not penalize states that do not participate in the expansion by withholding their existing federal Medicaid funds.
 - The Medicaid expansion is constitutional for states that participate voluntarily and accept the new federal funding (Roberts, Breyer, Kagan, Ginsburg, Sotomayor).
 - Requiring states that do not participate in the expansion to forfeit all Medicaid funding is unconstitutionally coercive of states (Roberts, Breyer, Kagan, Scalia, Kennedy, Thomas, Alito).