

SOURCE: Observer & Eccentric Newspapers (Southfield, MI)
AUDIENCE: 97,000 [provided by Nielsen//NetRatings]
DATE: 12-06-2012
HEADLINE: Obamacare: Is it a tax?

Source Website

Obamacare: Is it a tax?

Takin' Care of Business

By Dan Hoops

Guest Columnist

With the U.S. Supreme Court's decision to uphold the Constitutionality of the Affordable Healthcare Act (or "Obamacare"), the political analysis came from all of our elected leaders as expected. Whether you agree with this new program or not, I have to say I was extremely blessed to have such high quality care in my neighborhood following an emergency room visit and surgery at Providence Park this past summer; and extremely blessed that I had insurance to cover this completely unanticipated event.

Much of the debate following the Supreme Court's decision related to the Chief Justice's opinion that referenced Article 1, Section 8, Clause 1 of the Constitution; this section is called the "Tax and Spend" clause. In other words, the Constitution provides Congress with the authority to pass laws that include a tax, duty, excise or levy to pay our country's debts or for the overall general welfare of the country. In other words, to "pay for Obamacare."

What had become the rallying cry for both supporters and opponents of the program was that it was a "tax." In my opinion, it is a penalty and, until some better legislation is crafted by our Congress, a well-deserved penalty for those who choose NOT to abide by the statute's mandate. I want to emphasize, "until some better legislation is crafted" because I do not think this program will work if only one-half the country is in favor of it to begin with.

Most people seem to gripe about perceived "loopholes," what rate their income is taxed, and how corporations seem to pay no federal income tax. What few seem to discuss is tax policy and how it has failed in the past to fix two American problems: the increasing cost of health care and whether citizens can retire with some financial safety net.

Congress has used its taxing authority in the past to "encourage behavior" in these two areas for decades. Look at the number of above and below the line income tax deductions to encourage people to save for their retirement or pay for health insurance and medical care. But these deductions and credits haven't worked; how many people really take advantage of the tax benefits we get for contributing to an IRA or Health Savings Account?

What bothers me is that I do pay, every month, for private health insurance and I pay into the FICA system. I have been doing this since I graduated law school. In other words, I'm doing what "I'm supposed to be doing" as a U.S. citizen, yet my health insurance premiums and costs continue to climb each year because so many are either uninsured or abuse the local ER driving up all of our costs.

The FICA has been an employment tax for decades and it was designed to pay for both health care (Medicare since the 1960's) and retirement (Social Security since the 1930's) for millions of taxpayers. For some reason, however, we still have people without health insurance and many are concerned that they will not have a nest egg to retire.

So my feeling on this "penalty" is that it encourages behavior; it penalizes those persons (business owner or employer) who should or can – but refuse to – provide health insurance for their employees. In other words, it lessens the overall costs for those of us who have been doing things the right way but are too strapped to keep carrying these costs. For those reasons, Chief Justice Roberts read the taxing authority as providing this authority for the overall general welfare of our country.

While Congress approaches, yet another, "fiscal cliff," I have to shake my head wondering whether we will have a longer-term tax policy or another "kick the can" until the next election. As citizens, we should not tolerate this behavior – from either political party – because sound tax policy allows the entire country to plan for the long term. There are many social programs, tax benefits and penalties that are "on the books," our elected officials should be reviewing them and should be considering whether these make sense practically, not politically.

Daniel S. Hoops is the chair, Accounting and Taxation Department, and associate professor at Walsh Business College. Hoops holds a master of laws in estate planning from the University of Miami School of Law; a juris doctor from the Michigan State University Detroit College of Law; and a bachelor of musical arts from the University of Michigan. Hoops is also a 1987 graduate of Novi High School. He can be reached at **Walsh College** at 248.823.1334 or dhoops@walshcollege.edu.

Highlights: Walsh College