

**TO: Interested Parties**  
**FROM: Geoff Garin**  
**DATE: February 26, 2015**  
**RE: The Politics of King vs. Burwell**

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Our recently completed survey of 800 voters nationwide shows that a large majority of Americans believe that the tax credits under the Affordable Care Act should be available to people in all 50 states, and there will be broad disapproval if the Supreme Court decides to restrict the tax credits only to people in states that have their own healthcare exchanges. The survey results also show that the case creates significant political jeopardy for Republicans in Congress, because a large majority of voters react unfavorably to learning that congressional Republicans want the Supreme Court to take the tax credits away from people in 34 states and would not act to restore the tax credits legislatively.

## **DISCUSSION OF THE FINDINGS**

**1. The availability of tax credits to help individuals afford health insurance is a popular element of the Affordable Care Act, including among Republican voters.**

When asked about the tax credits and the income thresholds to be eligible for them, 61% of voters say they feel favorable toward this provision of the ACA, while only 16% feel unfavorable; 22% feel neutral.

Democrats feel favorable toward the tax credits by 79% to 7%, independents feel favorable toward them by 54% to 21%, and Republicans feel favorable by 49% to 22%.

**2. There is a strong and widely held consensus among voters that the Supreme Court should not restrict the availability of the Affordable Care Act tax credits.**

When informed of the possible outcomes of the Supreme Court decision in King vs. Burwell, fully 71% say they want a decision that continues the availability of the tax credits to people in all 50 states, including a 56% majority who strongly prefer this outcome. Only 16% prefer an outcome that would restrict the availability of the tax credits

to people in the states that created their own state health insurance exchange.

Large majorities in every subgroup, including rank-and-file Republican voters, want an outcome that preserves the tax credits in all 50 states, including those that use the national exchange.

**3. A decision by the Supreme Court to restrict the availability of tax credits under the Affordable Care Act would be met with broad disapproval by voters across party lines.**

Sixty-three percent (63%) of voters say they would disapprove of a Supreme Court decision that would limit the ACA's tax credits to only the 16 states that have their own state health insurance exchange and would make them unavailable in the other 34 states. There is significant intensity to these opinions, with 44% saying they would disapprove of such a decision strongly—three times the proportion who would approve strongly (15%).

A decision restricting the availability of the tax credits would meet with disapproval among majorities of Democrats (74% disapprove, 22% approve), independents (57% approve, 35% disapprove), and Republicans (56% disapprove, 31% approve). Even among those who feel unfavorable toward the Affordable Care Act overall, the majority would react negatively to a Supreme Court decision restricting the availability of the tax credits (51% disapprove, 38% approve).

**4. There is surprising and significant cynicism about what would motivate justices to restrict the availability of the ACA's tax credits, with most voters believing that such a decision would be based on politics rather than the law.**

If the five conservative justices who were appointed by Republican presidents join together in a decision that eliminates the tax credits for people in the 34 states who buy insurance on the national exchange, 51% believe their decision would be based mainly on politics, while only 33% believe it would be based mainly on the law.

Those who would disapprove of a decision restricting the tax credits say by 57% to 27% that such a decision would be the product of political considerations rather than legal ones. Democrats say by 41 points that the justices' decision would be based on politics rather than the law, and independents do so by 15 points. Rank-and-file Republican voters are divided evenly on this question (44% based on law, 40% based on politics).

- 5. The posture of Republican leaders on King vs. Burwell creates a substantial vulnerability for Republican elected officials and candidates, who will be seen as complicit in an effort to take away tax credits from eight million or more Americans who depend on them.**

A 59% majority of voters say they feel less favorable toward Republican congressional leaders upon hearing that “they want the Supreme Court to take away the tax credits from people in the 34 states who buy insurance on the national health insurance exchange, and they say they will not take any action to restore the tax credits if the Supreme Court decides to take them away.”

Not surprisingly, 86% of Democratic voters say the position of Republican leaders on this matter makes them feel less favorable toward the GOP leadership, and the negative impact on the GOP extends to a majority (53%) of independent voters and a significant minority (32%) of rank-and-file Republican voters. Fifty-eight percent (58%) of independents also react unfavorably to Republican leaders when they embrace the Supreme Court case as helping their efforts to totally repeal the Affordable Care Act.

This case also has the potential to harm Republicans in their geographic base. The 34 states that could be affected adversely are much more Republican in their party identification (34% Republican, 32% Democrat) than the states that would be able to keep the tax credits (45% Democrat, 28% Republican). Voters in the 34 states at risk express significant concern upon learning that their states would be the ones losing the tax credits, including half of all Republicans in those states.

*The interviews on which these findings are based were conducted with respondents on landlines and mobile telephones from February 18 to 22, 2015. The statistical margin of error associated with a randomly selected sample of 800 respondents is  $\pm 3.5$  percentage points. The survey was conducted on behalf of the Service Employees International Union.*