

Obamacare' tax hikes vs. tax breaks: Which is greater?

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Jonathan Ernst/Reuters

"The Supreme Court looked at what the structure of the law was, and they saw that 1 percent of the people would be paying this charge if they chose not to avail themselves of health insurance. But more middle-class people are going to get a tax cut in this law. There's a tax cut of \$4,000 for people who need help paying for health insurance."

— White House Chief of Staff Jack Lew on ABC's "This Week," July 1, 2012

Republicans have seized on the Supreme Court's health-law ruling to blast the Affordable Care Act as a giant tax on the middle class. Rush Limbaugh went so far as to call it the "biggest tax increase in the history of the world," a preposterous claim we debunked in a previous column.

On Sunday, White House Chief of Staff Jack Lew refused to acknowledge that the individual mandate represents a tax, even though the majority of the Supreme Court justices defined it as such. He called the enforcement measure a "charge" that would apply only to a small fraction of the population, and that "more middle-class people are going to get a tax cut."

Let's look at the numbers to determine whether tax breaks or tax hikes — including the mandate — will be greater under "Obamacare." We'll focus on the number of people affected by both aspects of the law, since that's what Lew talked about. But we'll also review the monetary totals, just for good measure.

The Facts

Before diving into the numbers, let's remember why both campaigns need to play the semantics game: the "penalty-tax" can make either one of candidates look bad.

President Obama promised unequivocally during his 2008 campaign not to raise taxes — none whatsoever — on families making less than \$250,000 per year. Whether or not the president fulfilled that pledge hinges largely on whether the individual-mandate penalty constitutes a tax. (Our colleagues at PolitiFact argue he has already broken that pledge with cigarette taxes and other broad-based taxes.)

Republican challenger Mitt Romney is trying to have it both ways. He implemented a mandate in Massachusetts, but swears up and down that he never raised taxes. By the same token, he is attacking the president for increasing taxes with the health law. This week, he offered an unusual explanation for how the federal penalty qualifies as a tax while a virtually identical measure in Massachusetts does not.

On Thursday, Obama campaign press secretary Ben LaBolt said the president views the enforcement measure as a penalty, insisting that his position should have been clear from the government's defense in front of the Supreme Court. That's a dubious claim considering how Solicitor General Donald B. Verrilli Jr. told the justices that the mandate "is justifiable under [Congress's] tax power," and that "calling it a penalty as they did would make it more effective in accomplishing its objectives; but it is in the Internal Revenue Code, [and] it is collected by the IRS on April 15."

Okay, we have demonstrated that both sides are playing fast and loose with definitional issues. Now, let's pull up the numbers to determine whether the "penalty-tax" provides more boost or burden for the middle class.

The Affordable Care Act promises tax credits and cost-sharing subsidies for individuals who earn between 100 and 400 percent of the federal poverty level. The goal is to help people satisfy the individual mandate when they can't afford insurance and don't qualify for Medicaid.

In addition, small businesses will qualify for tax credits if they have no more than 25 employees and average wages of \$50,000 per year.

On the other hand, the health law imposes a penalty of \$95 or 1 percent of adjusted gross income per adult, whichever is greater, beginning in 2014. The charge jumps to 2 percent or \$325 per adult in 2015, and it rises again to 2.5 percent or \$695 per adult in 2016.

(The Joint Committee on Taxation has provided an explanation of all revenue provisions in the Affordable Care Act in case you want to dive into the nitty-gritty details.)

A report from the nonpartisan Congressional Budget Office shows that an estimated 4 million individuals will pay penalties to the IRS in 2016 because of the mandate — no information is available for other years. This represents about 1.2 percent of the total population, according to projections from the Census Bureau. So Lew is correct with his assertion that only "1 percent of the people would be paying this charge."

How about the notion that more people will receive subsidies than those who incur penalties?

Lew is correct in this regard as well. The CBO estimates that 16 million people will receive credits or subsidies to help pay for insurance coverage through the new exchanges in 2016. That's 5 percent of the overall population.

To review, we're talking about 1.2 percent of the population paying penalties, compared to 5 percent receiving tax credits or subsidies.

We took the liberty of running our own penalty projections for 2022 — since the CBO has not provided numbers beyond 2016 — to make sure the credits and subsidies would still outweigh penalties. It ends up that the number of uninsured who pay a charge would jump to 1.7 percent of the population after 11 years, but that's hardly high enough to discredit Lew's 1 percent claim.

(A bit about our methodology: the CBO estimated that total revenue from penalties would rise by 50 percent by 2022, so we increased the number of penalty payers by that same percentage to come up with the missing figure for that year.)

It's worth noting that the health law involves more taxes than just a penalty on the uninsured — if you consider that to be a tax. They include: an excise tax on “Cadillac plans” (plans with especially high premiums); fees on certain manufacturers and insurers; a surtax on investment income for the wealthy; higher Medicare payroll taxes for individuals making more than \$200,000 per year; a tax on medical-device manufacturers; and a tax on indoor tanning services.

It's a stretch to say that any of these taxes will affect the middle class, even those that apply to individuals, such as the taxes on “Cadillac plans” and investment income or the higher payroll taxes. But we should provide a few caveats: many conservatives argue that the hikes on businesses will affect hiring, which could affect middle-income people; and “middle class” is a term with no clear definition — nearly everyone thinks they qualify.

Lew is on solid ground with both of his claims. But what if we look at monetary totals? Will the subsidies still outweigh the penalties?

The CBO estimated that the government will provide \$630 billion in tax credits and subsidies for insurance within the next 11 years, compared to just \$54 billion in penalties for uninsured individuals over the same period. (See Table 2 from the penalties link.)

As you can see, credits and subsidies represent nearly 12 times the amount of “tax” through the penalty.

For good measure, we compared *all* the tax hikes with the estimated tax credits and subsidies, using a combination of the CBO reports and a table from the Joint Committee on Taxation that breaks down the health law's revenue hikes. Here's what that looks like over a seven-year span:

New revenue: \$459 billion (including \$30 billion in penalties)

Credits and subsidies: \$343 billion

(Note: These totals reflect only 2012 through 2019, since those were the only common years between the CBO and JCT tables.)

In this case, the tax hikes outweigh credits and subsidies. But again, Lew mentioned “middle-class people,” whom most of the tax increases won't directly affect.

Total middle-class tax hikes, as the Joint Committee on Taxation has listed them, would amount to just \$64.6 billion, compared to \$343 billion in subsidies and credits. The tax increases in this case would affect individuals making less than \$200,000. They include the penalty, plus a higher threshold for itemized deductions of medical expenses and additional taxes related to health spending accounts and flexible spending arrangements.

Pinocchio Test

It's not our business to pass judgment on the health-care law. But we have reviewed the numbers for tax hikes versus tax breaks for the middle class, and we found nothing to dispute Lew's statements.

The health law, if it works as the nonpartisan government analysts expect, will provide more tax relief than tax burden for middle-income Americans. The White House chief of staff earns a rare Geppetto Checkmark for his remarks on "This Week."

Geppetto

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