

RELEASE IN FULL

From: Koh, Harold Hongju <KohHH@state.gov>
Sent: Thursday, June 28, 2012 10:26 AM
To: H
Cc: Sullivan, Jacob J; Mills, Cheryl D
Subject: FW: Health care outcome

Importance: High

fyi

From: Koh, Harold Hongju
Sent: Thursday, June 28, 2012 10:25 AM
To: Nides, Thomas R; Boswell, Eric J; Sherman, Wendy R; Adams, David S; Mull, Stephen D; Crocker, Bathsheba N; Sullivan, Jacob J; Mills, Cheryl D; Nuland, Victoria J; Smith, Dana S (PA)
Subject: Health care outcome
Importance: High

As predicted. Ct. narrowly upholds. Still reading. L will send an info memo before the end of the day

But as we are seeing it right now, the money quote from the section on the mandate: "Our precedent demonstrates that Congress had the power to impose the exaction in Section 5000A under the taxing power, and that Section 5000A need not be read to do more than impose a tax. This is sufficient to sustain it."

CJ Roberts, as predicted places himself as the swing vote and controls the outcome. J. Kennedy not the "decider" This is the narrowest ground to uphold, allows Congress to say the Administration has imposed a hidden tax (now open). This allows CJ Roberts to reserve the wisdom of doing this to "the People", and will allow him to be described in post-term commentary as "deft" in his management of both this case and Arizona immigration.

More to come
Harold