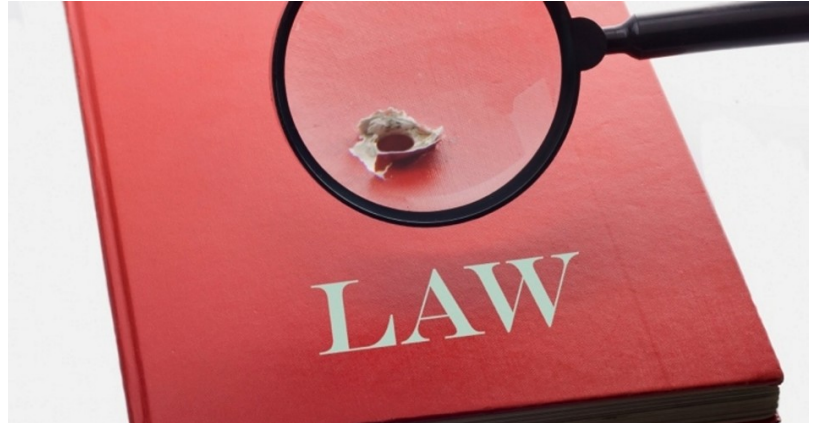




Written by [Raven Clabough](#) on July 8, 2013

GOP Questions Legality of ObamaCare Provision Delay

An [announcement](#) last week by Treasury Department Assistant Secretary Mark Mazur that his department would delay for one year a key component of the healthcare law — penalizing companies that fail to provide insurance coverage for their employees — has prompted House Republicans to question whether federal officials have the authority for such action.



Mazur had explained the reason for the delay: “We have heard concerns about the complexity of the requirements and the need for more time to implement them effectively. We have listened to your feedback. And we are taking action.”

Rep. Phil Roe (R-Tenn.) responded in a statement, “This action raises a lot of questions about whether the Obama administration can simply ignore the law when it’s convenient for them,” adding that he’s asked the Congressional Research Service to “investigate” the issue “because I don’t think any president has the authority to pick and choose what parts of law to follow.”

An official at the Treasury Department asserted that the delay is well within the administration’s rights as “an exercise of the administrative authority” under the IRS code. The official told Fox News that the department has the authority to “grant transition relief when implementing new legislation” such as the healthcare law.

The Daily Caller [notes](#) that the administration may be able to defend its decision to delay the employer mandate because the law allows it the authority to schedule reporting requirements.

However, the law does not allow the administration to stop collecting tax penalties.

In a blog post, University of Michigan assistant professor Nicholas Bagley wrote,

[The law] is blunt that it “hereby impose[s] on the employer an assessable payment for failing to adhere to the employer mandate.”

The natural inference is that the penalty comes into force on January 1, 2014, whether or not the agency has the reporting machinery in place to administer it.

However, the administration may claim that its ability to adjust reporting requirements implies the tax penalty can also be adjusted, Bagley added, explaining that the administration could potentially conclude that because Congress gave the treasury secretary the authority to specify when the returns are filed, it also enabled him to delay the imposition of tax penalties.

Republicans are taking this issue to the House Ways and Means subcommittee; a [hearing](#) has been set for July 10.

“This is another in a string of extra-legal actions taken by [Obama’s] administration to mask the horrible impact his law will have on the economy and healthcare in the United States,” declared Rep. Darrell



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Issa (R-Calif.).

Iowa Republican Steve King asserted that the only way for the Obama administration to appropriately prohibit provisions of the law from taking effect as scheduled is through Congress.

Republicans are not just focused on whether the administration abused its power in announcing the delay; they are questioning why the individual mandate was not delayed as well.

Likewise, they are questioning whether [more delays](#) are in store before the January 1 launch of the law's significant provisions.

"It's clear we have no idea the full scope of delays and disarray that may be coming. The American public deserves answers," Rep. Fred Upton (R-Mich.), chairman of the House Energy and Commerce Committee, said in a statement.

Republicans on the House Energy and Commerce Committee sent letters to both the Treasury Department and Department of Health and Human Services last week demanding records detailing the deliberations that resulted in the delay. In the letters, they inquired about the "individual mandate" as well as the expansion of Medicaid, insurance exchanges, and other fees connected to the law.

Senate Democratic Leader Harry Reid defended the delay, saying it merely demonstrated a "willingness to be flexible" and work with businesses. "Flexibility is a good thing," he said. "It is better to do this right than fast."

Republicans contend that they have long heard complaints regarding the employer mandate, but that the Obama administration has refused to admit to any problems until last week.

"The acknowledgement that a delay in the law's implementation is needed is completely at odds with previous public statements made by administration officials," they wrote.

Despite all reasons given by the administration for the delay, Republicans believe it was a political move to push some of the more unwelcome provisions of the healthcare behemoth past the 2014 elections.

Senator Orrin Hatch (R-Utah) observed, "[This] delay — conveniently past the 2014 elections — only adds to the uncertainty these job-creators face because of Obamacare. The only reasonable recourse is to fully repeal this law."

Critics say the delay demonstrates the administration's tacit admission that the healthcare law will ultimately fail.

Tim Phillips, president of Americans for Prosperity, noted,

It is increasingly obvious that the Obama administration is nowhere near ready to deal with the countless negative consequences their own law creates. This delay amounts to an admission that forcing small businesses to comply with more onerous regulations only hurts jobs and slows the economy.



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