



Written by [Raven Clabough](#) on June 4, 2013

Rubio Touts Constitutional Amendment to Nix ObamaCare Insurance Mandate

Florida Republican Senator Marco Rubio (shown) has [proposed](#) adding an amendment to the U.S. Constitution that would invalidate the ObamaCare health insurance mandate. Labelled the “Right to Refuse” amendment, the measure would make it unconstitutional for Congress to impose taxes on American citizens who refuse to purchase goods or services deemed necessary by Congress.



Last year, the U.S. Supreme Court ruled 5-4 that the individual mandate clause of the Affordable Care Act is constitutional because it is a tax and therefore falls under the power of Congress to tax.

Chief Justice Roberts wrote in the majority opinion that while the “individual mandate is not a valid exercise of Congress’s power under the Commerce Clause and the Necessary and Proper Clause,” it is a valid exercise of the taxing power granted the federal government by the Constitution. “Simply put, Congress may tax and spend,” he concluded. Of course, that line of reasoning overlooks the fact that the federal government taxing powers are not intended to fund anything the Congress wants to spend money on but only those things that are enumerated in the Constitution.

Rubio seeks a constitutional amendment to override that ruling. According to his office, the Right to Refuse amendment reads, “Congress shall make no law that imposes a tax on a failure to purchase goods or services.”

If the individual mandate is permitted to go into effect, the IRS is tasked with the responsibility of overseeing the payments of the individual mandate tax by those who opt out of health insurance.

Rubio contends, however, that the recent scandal surrounding the IRS is compelling enough to invalidate the agency’s role in overseeing the mandatory individual mandate tax on all Americans. He stated in a press release:

ObamaCare is a disastrous policy that is not only destructive to job creation, it will also unleash the corrupt and scandal-ridden IRS on taxpayers simply for not buying health insurance. We should put our faith in the American people to decide what goods and services they want to buy, not have Congress dictate it and have the IRS empowered to harass Americans to make sure they do it.

Let’s do everything we can to keep the IRS out of our health care and stop future congresses from forcing private citizens to spend their hard-earned money on products or services Washington is forcing on them.

Rubio’s Right to Refuse amendment is the Senate companion to H .J. Res. 28, [introduced](#) in the House of Representatives in February by Rep. Steven Palazzo (R-Miss). In a [statement](#), Palazzo applauded Rubio for promoting the amendment:

Senator Rubio has been a consistent defender of individual liberty, and I’m proud to have his support in championing this cause. Just as the IRS has no business punishing organizations based



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on political beliefs, the government has no business telling individuals how they should spend their money. How can Americans feel confident about Obamacare going forward if they can't even trust the agency tasked with enforcing this massive law? That is why Right to Refuse is so important. This measure would take the power out of the hands of the IRS and place it back in the hands of the American people.

Rubio's amendment has support among several conservative organizations, including the American Center for Law & Justice (ACLJ), Americans for Tax Reform (ATR), and the National Taxpayers Union (NTU). But the John Birch Society is not among them. John F. McManus, president of the constitutionalist-minded group, points out, "Amending the Constitution to cancel an unconstitutional act of Congress — even one deemed acceptable by the Supreme Court — actually does disservice to the Constitution since it suggests that the ObamaCare mandate is constitutional. The outrageous requirements of the ObamaCare legislation, a measure that in no way is authorized by the Constitution, can be cancelled by state nullification or by congressional action, neither of which will imply that the Constitution is deficient and needs correcting."

An amendment to the Constitution requires a two-thirds majority in the House and Senate, or a constitutional convention called by two thirds of the state legislatures. It must be ratified by three quarters of the states in order to be added to the Constitution.

Photo: Senator Marco Rubio: AP Images



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