



# Debunking Myths Surrounding *King v. Burwell*

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The Supreme Court recently announced that it will hear the case of *King v. Burwell*, in which plaintiffs have challenged the IRS's decision to grant subsidies to enrollees in federally-run exchanges. The Affordable Care Act grants subsidies to individuals enrolling in state exchanges, but not in federally-run exchanges. Even so, the IRS decided to grant subsidies to all enrollees, whether on state-run exchanges or not.

There are some misunderstandings surrounding the lawsuit, but the Cato Institute's Michael Cannon dispels several of them, including:

- Myth -- *King v. Burwell* is a challenge to the ACA. Actually, the case does not challenge any aspect of the Affordable Care Act. Instead, it challenges the IRS's interpretation of the provision which limited subsidies to state-established exchanges.
- Myth -- the case involves a drafting error. Cannon says the key phrase - exchanges established by the "state" - appears throughout the ACA. It was not an accidental insertion.
- Myth -- the statute is ambiguous. Actually, the plain meaning of the statute indicates that subsidies are not available in federally-run exchanges. It is not ambiguous, and that interpretation is consistent with way the law is structured.
- Myth -- Congress meant to include subsidies for federal exchanges. Cannon explains that several of the bills that Congress drafted leading up to the Affordable Care Act were explicit about granting subsidies only to the states that ran their own exchanges, because some members were more comfortable with that. He cites the example of Rep. Lloyd Doggett (D-Texas), who warned members of his party that states would be able to keep subsidies out simply by choosing not to create exchanges.

Cannon notes that the IRS's original draft regulations made clear that subsidies were only available in states that had established their own exchanges. In 2011, however, it changed its mind and drafted regulations that granted subsidies to all enrollees.

Source: Michael F. Cannon, "[Seven Myths about \*King v. Burwell\*](#)," Cato Institute, November 10, 2014.