

110TH CONGRESS
1ST SESSION

S. 2373

To amend the Internal Revenue Code of 1986 to provide for residents of Puerto Rico who participate in cafeteria plans under the Puerto Rican tax laws an exclusion from employment taxes which is comparable to the exclusion that applies to cafeteria plans under such Code.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 15, 2007

Mr. SALAZAR (for himself and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide for residents of Puerto Rico who participate in cafeteria plans under the Puerto Rican tax laws an exclusion from employment taxes which is comparable to the exclusion that applies to cafeteria plans under such Code.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. EXCLUSION FROM EMPLOYMENT TAXES FOR**
2 **RESIDENTS OF PUERTO RICO FOR PAYMENTS**
3 **MADE UNDER A CAFETERIA PLAN WHICH**
4 **ARE EXCLUDABLE FROM THE PUERTO RICAN**
5 **INCOME TAX.**

6 (a) SOCIAL SECURITY TAXES.—

7 (1) IN GENERAL.—Paragraph (5) of section
8 3121(a) of the Internal Revenue Code of 1986 (de-
9 fining wages) is amended by striking “or” at the end
10 of subparagraph (H), by striking the semicolon at
11 the end of subparagraph (I) and inserting “, or”,
12 and by inserting after subparagraph (I) the fol-
13 lowing new subparagraph:

14 “(J) under a plan established under sec-
15 tion 1022(l) of the Puerto Rico Internal Rev-
16 enue Code of 1994 if such payment would not
17 be treated as wages without regard to such plan
18 and it would be reasonable to believe that (if
19 such section 1022(l) applied for purposes of
20 this section) such section 1022(l) would not
21 treat any wages as constructively received;”.

22 (2) SOCIAL SECURITY ACT.—Paragraph (4) of
23 section 209(a) of the Social Security Act (defining
24 wages) is amended by adding at the end the fol-
25 lowing: “or (L) under a plan established under sec-
26 tion 1022(l) of the Puerto Rico Internal Revenue

1 Code of 1994 if such payment would not be treated
2 as wages without regard to such plan and it would
3 be reasonable to believe that (if such section 1022(l)
4 applied for purposes of this section) such section
5 1022(l) would not treat any wages as constructively
6 received;”.

7 (b) UNEMPLOYMENT INSURANCE.—Paragraph (5) of
8 section 3306(b) of such Code (defining wages) is amended
9 by striking “or” at the end of subparagraph (G), by add-
10 ing “or” at the end of subparagraph (H), and by inserting
11 after subparagraph (H) the following new subparagraph:

12 “(I) under a plan established under section
13 1022(l) of the Puerto Rico Internal Revenue
14 Code of 1994 if such payment would not be
15 treated as wages without regard to such plan
16 and it would be reasonable to believe that (if
17 such section 1022(l) applied for purposes of
18 this section) such section 1022(l) would not
19 treat any wages as constructively received;”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to remuneration paid after the date
22 of the enactment of this Act.

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