

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.

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## 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

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## 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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