II

112TH CONGRESS
2D SESSION

S. 3411

To provide that the individual mandate under the Patient Protection and Affordable Care Act shall not be construed as a tax.

IN THE SENATE OF THE UNITED STATES

JULY 19, 2012

Mr. LEE introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide that the individual mandate under the Patient Protection and Affordable Care Act shall not be construed as a tax.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that on June 28, 2012, the Supreme Court ruled that the individual mandate imposed by section 1501 of the Patient Protection and Affordable Care Act (Public Law 111–148) and amended by section 10106 of such Act and sections 1002 and 1004 of the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152), has certain functional characteristics of a tax and could be sustained as an exercise of Congress's power to tax under article I, section 8, clause 1 of the Constitution.

SEC. 2. CLASSIFICATION OF INDIVIDUAL MANDATE AS NON-TAX.

(a) IN GENERAL.—Section 1501 of the Patient Protection and Affordable Care Act (Public Law 111–148) is amended by adding at the end the following new subsection:

"(e) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed as imposing any tax or as an exercise of any power of Congress enumerated in article I, section 8, clause 1 of, or the 16th amendment to, the Constitution.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply as if included in the enactment of section 1501 of the Patient Protection and Affordable Care Act.

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