

**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 1908  
OFFERED BY MR. BOUCHER OF VIRGINIA**

Page 52, insert the following after line 15 and redesignate succeeding sections accordingly:

1 **SEC. 10. TAX PLANNING METHODS NOT PATENTABLE.**

2 (a) IN GENERAL.—Section 101 is amended—

3 (1) by striking “Whoever” and inserting “(a)

4 PATENTABLE INVENTIONS.—Whoever”; and

5 (2) by adding at the end the following:

6 “(b) TAX PLANNING METHODS.—

7 “(1) UNPATENTABLE SUBJECT MATTER.—A

8 patent may not be obtained for a tax planning meth-

9 od.

10 “(2) DEFINITIONS.—For purposes of paragraph

11 (1)—

12 “(A) the term ‘tax planning method’

13 means a plan, strategy, technique, or scheme

14 that is designed to reduce, minimize, or defer,

15 or has, when implemented, the effect of reduc-

16 ing, minimizing or deferring, a taxpayer’s tax li-

17 ability, but does not include the use of tax prep-

18 aration software or other tools used solely to

1 perform or model mathematical calculations or  
2 prepare tax or information returns;

3 “(B) the term ‘taxpayer’ means an indi-  
4 vidual, entity, or other person (as defined in  
5 section 7701 of the Internal Revenue Code of  
6 1986) that is subject to taxation directly, is re-  
7 quired to prepare a tax return or information  
8 statement to enable one or more other persons  
9 to determine their tax liability, or is otherwise  
10 subject to a tax law; and

11 “(C) the terms ‘tax’, ‘tax laws’, ‘tax liabil-  
12 ity’, and ‘taxation’ refer to any Federal, State  
13 (as defined in subsection (e)(2)(G)), county,  
14 city, municipality, or other governmental levy,  
15 assessment, or imposition, whether measured by  
16 income, value, or otherwise.”.

17 (b) APPLICABILITY.—The amendments made by this  
18 section—

19 (1) shall take effect on the date of the enact-  
20 ment of this Act;

21 (2) shall apply to any application for patent or  
22 application for a reissue patent that is—

23 (A) filed on or after the date of the enact-  
24 ment of this Act; or

1 (B) filed before that date if a patent or re-  
2 issue patent has not been issued pursuant to  
3 the application as of that date; and

4 (3) shall not be construed as validating any pat-  
5 ent issued before the date of the enactment of this  
6 Act for an invention described in section 101(b) of  
7 title 35, United States Code, as amended by this  
8 section.

