

111TH CONGRESS  
1ST SESSION

# H. R. 2584

To amend title 35, United States Code, to limit the patentability of tax planning methods.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2009

Mr. BOUCHER (for himself, Mr. GOODLATTE, Mr. JONES, Mr. SPRATT, and Mr. SHERMAN) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 35, United States Code, to limit the patentability of tax planning methods.

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

3 **SECTION 1. TAX PLANNING METHODS NOT PATENTABLE.**

4 (a) IN GENERAL.—Section 101 of title 35 (35 U.S.C.  
5 101) is amended—

6 (1) by striking “Whoever” and inserting “(a)  
7 PATENTABLE INVENTIONS.—Whoever”; and

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

9 “(b) TAX PLANNING METHODS.—

1           “(1) UNPATENTABLE SUBJECT MATTER.—A  
2 patent may not be obtained for a tax planning meth-  
3 od.

4           “(2) DEFINITIONS.—For purposes of paragraph  
5 (1)—

6           “(A) the term ‘tax planning method’  
7 means a plan, strategy, technique, or scheme  
8 that is designed to reduce, minimize, or defer,  
9 or has, when implemented, the effect of reduc-  
10 ing, minimizing, or deferring, a taxpayer’s tax  
11 liability, but does not include the use of tax  
12 preparation software or other tools used solely  
13 to perform or model mathematical calculations  
14 or prepare tax or information returns;

15           “(B) the term ‘taxpayer’ means an indi-  
16 vidual, entity, or other person (as defined in  
17 section 7701 of the Internal Revenue Code of  
18 1986) that is subject to taxation directly, is re-  
19 quired to prepare a tax return or information  
20 statement to enable one or more other persons  
21 to determine their tax liability, or is otherwise  
22 subject to a tax law;

23           “(C) the terms ‘tax’, ‘tax laws’, ‘tax liabil-  
24 ity’, and ‘taxation’ refer to any Federal, State,  
25 county, city, municipality, or other govern-

1           mental levy, assessment, or imposition, whether  
2           measured by income, value, or otherwise; and

3           “(D) the term ‘State’ means each of the  
4           several States, the District of Columbia, and  
5           any commonwealth, territory, or possession of  
6           the United States.”.

7           (b) **APPLICABILITY.**—The amendments made by this  
8 section—

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

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

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

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

18          (3) shall not be construed as validating any pat-  
19          ent issued before the date of the enactment of this  
20          Act for an invention described in section 101(b) of  
21          title 35, United States Code, as amended by this  
22          section.

23          (c) **EFFECTIVE DATE.**—The amendment made by  
24          subsection (a) shall take effect on the date of the enact-

- 1 ment of this Act and shall apply to any action for patent
- 2 infringement that is filed on or after that date.

