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**Amendment to the Amendment in the Nature of a Substitute to H.R. 5377
Offered by Rep. Arrington of Texas**

This amendment would ensure that the increased top marginal rate would not apply to small business income.

#1

AMENDMENT

OFFERED BY Mr. Arington

Insert after section 6(a) the following:

1 (b) INCREASE IN RATES NOT APPLICABLE TO
2 QUALIFIED BUSINESS INCOME.—

3 (1) IN GENERAL.—Section 1(j) of the Internal
4 Revenue Code of 1986 is amended by redesignating
5 paragraph (6) as paragraph (7) and by inserting
6 after paragraph (5) the following new paragraph:

7 “(6) RATE INCREASE NOT APPLICABLE TO
8 QUALIFIED BUSINESS INCOME.—

9 “(A) IN GENERAL.—For purposes of this
10 section, in the case of a taxpayer who for the
11 taxable year has qualified business income and
12 taxable income in excess of the maximum tax-
13 able income for the 35-percent rate bracket, the
14 amount of tax determined under the tables in
15 paragraph (2) for such taxable year shall not
16 exceed an amount equal to the sum of—

17 “(i) the amount of such tax deter-
18 mined under such tables without regard to
19 any qualified business income and any de-
20 duction under section 199A, plus

1 “(ii) the excess of—

2 “(I) the amount of such tax de-
3 termined under such tables as if the
4 *Restoring Tax Fairness for States*
5 and Localities Act has never been en-
6 acted, over

7 “(II) the amount of such tax so
8 determined without regard to any
9 qualified business income and any de-
10 duction under section 199A.

11 “(B) QUALIFIED BUSINESS INCOME.—For
12 purposes of this paragraph, the term ‘qualified
13 business income’ has the meaning given such
14 term by section 199A(c), except determined by
15 substituting ‘any trade or business of the tax-
16 payer’ for ‘any qualified trade or business of
17 the taxpayer’.”.

18 (2) CONFORMING AMENDMENT.—Section
19 1(j)(1)(B) of such Code is amended by striking
20 “through (6)” and inserting “through (7)”.

