



April 25, 2019

Governor Kate Brown
President Peter Courtney
Senator Mark Hass
Senator Arnie Roblan

Speaker Tina Kotek
Representative Nancy Nathanson
Representative Barbara Smith

Oregon State Capitol
Salem OR, 97301

RE: Equal Treatment Under House Bill 3427 – Ag Organizations

We appreciate the legislature attempting to exempt certain agricultural activities in the newest amendments to HB 3427. However, it appears that the new amendments inadvertently create yet another huge tax advantage for for-profit corporations organized under “agricultural cooperative”, to the disadvantage of family owned companies. We are simply advocating that all entities be treated the same under the law:

We have three points and proposed solutions:

#1. Ag Wholesale vs. Processor

Section 3 “CORPORATE ACTIVITY TAX”

(1)(b)“(Y) Receipts from sales to a wholesaler in this state or to an agricultural cooperative in this state that is a cooperative organization described in section 1381 of the Internal Revenue Code, if the seller receives certification at the time of sale from the wholesaler or cooperative that the wholesaler or cooperative will sell the purchased property outside this state;

Analysis:

An agricultural entity selling agricultural products may not qualify as a wholesaler due to conducting some, or significant, value-added processing, yet a competing corporation organized as a cooperative, conducting the exact same activities, would be exempt. This is not an equitable result.

Solution:

- a. Either exempt all agricultural processing and sales, or
- b. Eliminate the language ...“or to an agricultural cooperative in this state that is a cooperative organization described in section 1381 of the Internal Revenue Code.”

#2. Blanket Exemption for Agricultural Cooperative Corporations

“(6) ‘Excluded person’ means any of the following:

“(f) Organizations described in section 521 of the Internal Revenue Code.

Note – Internal Revenue Code section 521 is the exemption of Farmer’s cooperatives from taxation <https://www.law.cornell.edu/uscode/text/26/521>. While most Oregon cooperatives are taxed under subchapter T of the revenue code, it is unclear whether this reference is intending to exclude all farmers’ cooperatives, or just those exempt from taxation under IRC 521.

Analysis:

We are unsure of why (6)(f) is needed in the bill as it appears to create confusion of if there is a blanket exemption for all corporations organized for tax purposes as a “cooperative”. A blanket exemption is not an equitable result.

Solution:

- a. Eliminate (6)(f) from the bill

Potential Example Impact of #1 and #2 above:

	<u>Cooperative Corporation</u>	<u>Family Owned Business</u>	
Farmer:			
- Crop Sales	31,000,000	31,000,000	
- Activity Tax	-	147,250	- \$250 + 0.49% greater than \$1M
Processor:			
- Export Sales	41,000,000	41,000,000	
- Activity Tax	-	196,250	- \$250 + 0.49% greater than \$1M
Tax Impact:	<u>-</u>	<u>343,500</u>	

#3. Helping Agriculture Absorb the Impacts of HB 3427

Solution:

The biggest impact for agriculture will be attempting to compete in the world market where commodity margins can be below 2%. The most equitable solution to help agriculture compete in the world markets is to exempt agricultural sales made outside the United States (foreign sales).

We appreciate your review of our concerns and are available at anytime to work on amendments to make HB 3427 work as equitably as possible.

Sincerely,



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 Northwest Hazelnut Company
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