



April 25, 2019

Representative Nancy Nathanson
900 Court St. NE, S-279
Salem, OR 97301

House Bill 3427 – Equal Treatment of Agricultural Processors

Dear Representative Nathanson,

I am writing to request your help changing two sections of House Bill 3427, which place family owned agricultural processors at a competitive disadvantage. First, Section 3 (1)(b)(Y), which exempts receipts from sales to agricultural cooperative corporations. Our Oregon hazelnut industry is served by six main processors. Five of those are family owned and would be put at a competitive disadvantage by this section which is exempting farmers who sell to the one cooperative corporation.

The second issue that will negatively impact competition in our industry is Section 3 (6)(f), which, we believe, excludes the sales of a cooperative corporation from the activity tax. As you can see, this would again put the five family owned businesses at a serious disadvantage when compared to the one cooperative corporation.

Below I have included the excerpts from the two sections of the bill as well as an example of how the unequal treatment would impact our family owned business in a typical year.

We are asking for your help altering these sections of the bill to ensure that competitive balance can be maintained within our industry. Please give me a call if you wish to discuss any of these comments, or our industry further. If there is anything I can do to help you with this issue I am at your service. Thank you for your help.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eric Groves', written over a light blue horizontal line.

Eric Groves, CPA
Chief Financial Officer
Northwest Hazelnut Company

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;

“(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 not section 521 cooperative, as they 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.

Example Impact:

	Cooperative Corporation	Family Owned Business	
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:	-	343,500	