



Senate Committee on Finance and Revenue

May 17, 2021

Oregon Farm Bureau Federation Requests Consideration of an Amendment to SB 164

Chair Burdick and Members of the Committee:

Thank you for the opportunity to present testimony to the Committee today in response to SB 164. As a reference, the Oregon Farm Bureau Federation (OFBF) is the state's largest general agriculture association, representing nearly 7,000 families engaged in farming and ranching across every county in Oregon.

First, OFBF writes to express our appreciation for the legislature's support of HB 4202 in 2020. This bill, which was passed into law during the First Special Session of 2020, made several technical changes to the Corporate Activity Tax (CAT) and clarified treatment of certain agricultural entities, including the below modifications:

- Exempted crop insurance payments;
- Exempted sales from dairies that were not part of ag cooperatives (and therefore not excluded);
- Allowed farmers to access the 35% subtraction for 'cost of goods sold'; and
- Provided farmers with a clear process to certify out-of-state sales of agricultural commodities sold to a broker or wholesaler.

Since passage of HB 4202, our sector has worked closely with the Oregon Department of Revenue (DOR) to implement these changes. OFBF also has been working with our members and accountants to bring awareness to these amendments to the CAT. It is through this effort that we were made aware of the need for an amendment to allow taxpayers who sell crops to processors to qualify for the resale certificate outlined in HB 4202.

In the Fall of 2020, several OFBF members reached out to inquire about the possibility of obtaining a resale certificate for commodities sold to a processor. As the committee is aware, the CAT only applies to Oregon sales, but that value is often difficult to determine for comingled agricultural commodities that are sold in bulk. HB 4202 provides an important clarification for taxpayers who sell comingled commodities to brokers or wholesalers, allowing them to qualify for an out-of-state resale certificate (if available) or use an industry average if a certificate is not available. While this fix allows agricultural taxpayers to calculate their tax liability more accurately, the resale certificate is not currently an option for taxpayers who sell commodities to processors, even if their crops are subsequently resold outside of Oregon. The reason is that HB 4202 dealt primarily with technical fixes, and not policy changes.

While our members understand the rationale behind the technical amendments in HB 4202, they also request consideration of an amendment to allow farmers who sell commodities to processors to access the CAT resale certificate. Farmers and ranchers operate on very thin margins, and there is currently a disincentive to sell commodities to Oregon-based processors, as some taxpayers are unable to obtain documentation needed to accurately calculate which portion of their crops are sold in-state versus out-of-state.

OFBF respectfully requests that the Senate Committee on Finance and Revenue to consider an amendment to SB 164 to allow taxpayers who sell comingled commodities to processors to qualify for a resale certificate. That amendment is drafted in [HB 3208](#) and below:

*(2) A taxpayer that is engaged in a farming operation that sells agricultural commodities to a broker, **processor** or wholesaler may demonstrate the percentage of the taxpayer's goods sold in this state compared to outside this state, for purposes of determining commercial activity, by:*

*(a) Obtaining, from the broker, **processor** or wholesaler receiving an agricultural commodity from the taxpayer, a certificate that states the percentage;*

OFBF appreciates the Committee's consideration of this important issue.

Please contact Jenny Dresler (jenny@pacounsel.org) for Oregon Farm Bureau with any questions or comments related to this testimony.