



PO Box 2042
Salem, Oregon 97308
(503) 370-7019 • FAX (503) 587-8063
e-mail: john@profadminsर्व.com

Testimony in Support of SB 1531A
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John McCulley

The Agriculture Cooperative Council of Oregon supports SB 1531A and specifically the amendment added in the Senate, Sections 29 and 30 in the A-Engrossed bill. The amendment clarifies how Oregon is disconnected from the federal tax code as it relates to farmer cooperatives and the Domestic Production Activities Deduction (DPAD) found in Section 199 of the Internal Revenue Code.

Congress enacted The American Jobs Creation Act of 2004 as a way to encourage domestic job creation through a special deduction. The 2005 Oregon Legislature voted to disconnect from Section 199, encoded in ORS 317.398, prohibiting use of Section 199 for Oregon tax purposes.

Since that time, cooperatives doing business in Oregon have computed their state tax as if Section 199 did not exist because Oregon disconnected from the Section 199. Unfortunately the language used to implement the disconnect is subject to interpretation. The Department of Revenue interpreted the statute to say agricultural cooperatives must reduce their patronage payments, the cooperative's net income that must be passed through to members of the cooperative, by a Section 199 calculation.

The net effect of such an interpretation is that a portion of the net income from the cooperative is taxed twice, once at the farmer level and once at the cooperative level. If the disconnect were truly treated as a disconnect, the cooperative's deduction for patronage dividends passed through to its members would not be affected by Section 199 thus avoiding the double taxation of cooperative net income.

As amended SB 1531 avoids this double taxation of income by clarifying how agricultural cooperatives are treated under Oregon's disconnect from Section 199.

We appreciate the cooperation provided by the Oregon Department of Revenue as we worked through this issue.

We urge you to support SB 1531A.

Analysis of ODR treatment of section 199 deduction-EXAMPLE

2-1-2012

VERSION 1 - OREGON DEPT OF REVENUE DETERMINATION OF COOPERATIVE TAXABLE INCOME		Federal	Oregon	Difference
CO-OP Taxable income				
Cooperative net income		\$1,000,000	\$1,000,000	
Section 199 deduction		-\$90,000	\$0	
Net income before patronage deduction		\$910,000	\$1,000,000	
Patronage Deduction		-\$910,000	-\$910,000	
Cooperative taxable income		\$0	\$90,000	\$90,000
PATRONS taxable income				
Taxable income on 1099PATR form		\$1,000,000	\$1,000,000	
Section 199 deduction on 1099PATR form		-\$90,000	\$0	
Net taxable income to patron		\$910,000	\$1,000,000	\$90,000
TOTAL TAXABLE INCOME TO CO-OP & PATRON		\$910,000	\$1,090,000	\$180,000

> Oregon taxable income is larger than federal taxable income by \$180k. This is twice the amount of the sec 199 deduction.

> Also, the amount that patrons must report as patronage income from the Co-op (for Oregon tax) is \$1,000,000. However, the deduction allowed to the Co-op for this patronage deduction is only \$910,000.

VERSION 2 - COOPERATIVE INDUSTRY DETERMINATION OF COOPERATIVE TAXABLE INCOME		Federal	Oregon	Difference
CO-OP Taxable income				
Cooperative net income		\$1,000,000	\$1,000,000	
Section 199 deduction		-\$90,000	\$0	
Net income before patronage deduction		\$910,000	\$1,000,000	
Patronage Deduction		-\$910,000	-\$1,000,000	
Cooperative taxable income		\$0	\$0	\$0
PATRONS TAXABLE INCOME				
Taxable income on 1099PATR form		\$1,000,000	\$1,000,000	
Section 199 deduction on 1099PATR form		-\$90,000	\$0	
Net taxable income to patron		\$910,000	\$1,000,000	\$90,000
TOTAL TAXABLE INCOME TO CO-OP & PATRON		\$910,000	\$1,000,000	\$90,000

> This result is correct because the combined total of patron/co-op state taxable income is equal to the federal taxable income without the sec 199 deduction.

> In addition, the Co-op's total patronage deduction for Oregon tax is equal to the patron's total state taxable income reported to them on the 1099 form.