

Resale Certificate Fix for Food Crop Farmers

Background:

House Bill 3427, the Corporate Activity Tax (CAT), was passed in 2019, levying a 0.57% tax on Oregon sales. During the First Special Session of 2020, the legislature passed House Bill 4202, which made several technical changes to the CAT and clarified treatment of certain agricultural entities. HB 4202 made four important clarifications for farmers and ranchers:

- (1) Exempts crop insurance payments;
- (2) Exempts sales from six dairies that were not part of ag cooperatives (and therefore not excluded);
- (3) Allows farmers to access the 35% subtraction for 'cost of goods sold'; and
- (4) Creates a resale certificate to determine tax liability for comingled commodities sold to a broker or wholesaler.

Problem:

The CAT tax only applies to Oregon sales, but that value is often difficult to determine for comingled agricultural commodities. Oregon statute is clear that taxpayers who sell crops to brokers or wholesalers qualify for an out-of-state resale certificate, which enables them to more accurately calculate their tax liability under the CAT. Unfortunately, farmers who sell their crops to processors do not currently qualify for the out-of-state resale certificate, even if their crops are resold outside of Oregon. This creates a disincentive to sell to Oregon-based processors, because some taxpayers are unable to obtain documentation needed to accurately calculate which portion of their crops are sold in-state v. out-of-state.

The Fix:

If a farmer or rancher sells commodities to a broker, wholesaler, **or processor**, they should be eligible to receive a resale certificate to accurately determine their Oregon tax liability.