

Leaders of Congressional Tax-Writing Committees Commit to Fixing Section 199A of New Tax Law

Leaders of the Senate Finance and House Ways and Means Committees committed to addressing as soon as possible the unintended consequences of Section 199A of the Tax Cuts and Jobs Act during hearings on Capitol Hill this week. During a Senate Finance Committee hearing on Feb. 14, Chairman Orrin Hatch, R-Utah, noted that the provision's current language "does not maintain the previous competitive balance between cooperatives, other agricultural businesses, and the farmers who sell their crops to them, which existed prior to enactment of the tax reform bill."

As you probably know, the new tax law Section 199A – included during the waning hours of congressional consideration of the Tax Cuts and Jobs Act of 2017 – is influencing producer marketing decisions. As currently written, Section 199A language could significantly skew producers' decisions on which type of business entity with which to market their commodities. The provision unintentionally created a tax advantage for producers who sell to cooperatives instead of private and independent firms.

Hatch said he is committed to working with fellow leaders on the committee, Sens. Chuck Grassley, R-Iowa; Pat Roberts, R-Kan., and John Thune, R-S.D., and House Ways and Means Chairman Kevin Brady, R-Texas, "to develop a solution to this issue that does not choose winners and losers and is fair to everyone involved. "Once a suitable solution is identified, my goal is to work with my colleagues to advance legislation that can be sent to the president for his signature as soon as possible," Hatch noted.

During the same hearing, Grassley also commented on the "necessity for correcting" Section 199A. "It is pretty simple that Congress would not pass a law that would put some segments of our economy out of business and that's why it needs to be changed," he said.

In the House Ways and Means Committee hearing on Feb. 15, Chairman Brady echoed those sentiments. "We know that certain parts of this provision have unintended consequences," he said, noting that he's committed to developing "the right solution now – one that's thoughtful, carefully crafted, and effective in restoring balanced competition in the marketplace." Brady said he is "committed to taking action on a solution as soon as possible." Apparently MN Congressman Collin Peterson has been working closely with Chairman Brady in finding an equitable solution as well.

This week, Rep. David Young (R, IA) and Rep. Rick Crawford (R, AR) circulated a letter for colleagues to sign, urging congressional leadership to prioritize the Sec. 199A repair. **The MGFA has actively encouraged the Minnesota Republican delegation to sign on to the letter and so far, Rep. Emmer has signed.** The flaw in the new tax law "unfairly distorts the marketplace with the potential to reduce competition, directly harm small and independent businesses and increase consolidation in the agriculture industry."

The National Council of Farmer Cooperatives (NCFC) has said that they had concerns with some of the proposed solutions due to the "unintended consequences of disadvantaging farmer co-ops in the marketplace." NCFC says it's offered two proposed solutions, but said 10 days ago "our understanding is that they are not yet acceptable to the other side."

NGFA President Randy Gordon noted in a media statement this week that the Association is disappointed that a solution to correct Section 199A has not already been passed by Congress. However, "considerable progress has been made during the last several weeks of intensive

effort toward reaching an equitable solution,” Gordon said, adding that NGFA is “gratified that the many members of Congress with whom we and other stakeholders are engaged on this issue are equally committed to enacting an equitable solution as part of the next available legislative vehicle.”

The NGFA notes that the two fundamental goals of these efforts remain to replicate the tax treatment accorded to cooperatives and their farmer-patrons under previous Section 199 of the tax code, and to do so in a way that restores the competitive landscape of the marketplace that existed prior to the enactment of Section 199A on Dec. 22, 2017.

Source: MGFA Washington Weekly Report