May 28, 2020

The Honorable Steven Mnuchin
Secretary of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

The Honorable Russell T. Vought
Acting Director
Office of Management and Budget
725 17th Street NW
Washington, DC 20503

The Honorable Paul Ray
Administrator
Office of Information and Regulatory Affairs
725 17th Street NW
Washington, DC 20503

Dear Secretary Mnuchin, Director Vought, and Administrator Ray:

The Agricultural Retailers Association (ARA) is aware of the Internal Revenue Service's (IRS) intent to finalize regulations regarding Section 199A of the Tax Cuts and Jobs Act, and amendments therein.

ARA represents ag retailers who supply farmers and ranchers with products and services. These products include seed, nutrients, crop protection products, feed, equipment and technology. Retailers also provide consultative services such as crop scouting, soil testing, field mapping, custom planting and application and development of nutrient management and conservation plans.

Agricultural retailers range in size from small, family-held businesses to large companies and farmer-owned cooperatives with many outlet stores. Large and small retail facilities are scattered throughout all 50 states and provide critical goods and services, as well as jobs and economic opportunities in rural and suburban communities.

In 2018, Congress amended Section 199A of the Tax Cuts and Jobs Act of 2017 to correct a provision affecting cooperatives and their farmer patrons. ARA, in association with other interested parties, are working to ensure the same objectives are met in rulemaking:

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1. Replicate, to the greatest extent possible, the tax benefits accorded to farmer-owned cooperatives and their farmer-patrons under the previous Section 199 of the tax code, as it existed prior to its repeal in the Tax Cuts and Jobs Act;

2. When enacting new code Section 199A(g), utilize Congress's clear intent the rule should operate in the same manner as former Section 199. Farmer cooperatives and their farmer-owners have utilized the Section 199 deduction since its inception in 2004. The proposed regulations by the U.S. Treasury limit the new deduction to patronage income, eliminating cooperatives' ability to calculate the deduction on nonpatronage income. Cooperatives conduct business with nonmembers and incur nonpatronage income for several reasons. Whether selling fuel in rural communities; sourcing product to ensure that processing facilities run at capacity; or dealing with a local farmer who chooses not to join the cooperative, nonpatronage business supports the financial well-being of the cooperative and its farmer-members. Limiting the deduction in this way will cause cooperatives and their farmer owners to incur a tax increase.

3. Restore and preserve the competitive landscape of the marketplace as it existed in December 2017 so that the tax code does not provide an incentive for farmers to do business with a company solely because it is organized as a cooperative or private/independent firm.

As the United States Treasury Department and the IRS work to finalize their regulations regarding this issue, we encourage you to include nonpatronage income in the deduction's calculations.

Thank you for your time and attention to this issue.

Sincerely,

W. Daren Coppock
President and CEO
Agricultural Retailers Association