

Congress of the United States
Washington, DC 20515

February 14, 2020

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

Dear Mr. Secretary,

We write to you today to share our views about provisions in proposed Treasury regulations implementing Internal Revenue Code (IRC) section 199A with respect to farmer cooperatives and their patrons. We believe that these regulations must be carefully considered to ensure that they comport with Congressional intent and avoid any harm to farmers and farm communities.

As you know, prior to the Tax Cuts and Jobs Act (TCJA), section 199 of the IRC provided a permanent tax deduction for entities engaged in domestic production activities. While the reduction in individual and corporate tax rates for most entities in TCJA rendered this provision unnecessary, TCJA created a new deduction for agricultural cooperatives as part of section 199A in an effort to ensure agricultural cooperatives were held harmless from the repeal of section 199.

In 2018, Congress amended section 199A to address a drafting error that held the potential to create a competitive imbalance between cooperatives and non-cooperatives providing the same agricultural services. The purposes of this amendment, which created Section 199A(g) of the IRC, were two-fold – replicating section 199 as closely as possible for cooperatives and their farmer-patrons while restoring balance to the marketplace between cooperatives and non-cooperatives.

New IRC section 199A(g) contains the same statutory language as former IRC section 199 with respect to farmer cooperatives and their patrons. Legislative history provides that new IRC section 199A(g) was intended to operate the same as former IRC section 199. Moreover, IRC 199A(g)(6) provides that any Treasury regulations “shall be based on regulations applicable to cooperatives and their patrons under section 199 (as in effect before its repeal).”

We understand that Treasury has received comments highlighting instances where the proposed regulations depart from former IRC section 199. We trust you will review these comments and ensure the final rule for section 199A(g) reflects congressional intent.

Thank you for your consideration of this matter. We look forward to hearing how you intend to address these critical matters.



Ron Kind
Member of Congress

Sincerely,



Adrian Smith
Member of Congress



Earl Blumenauer
Member of Congress



Darin LaHood
Member of Congress



Suzan DelBene
Member of Congress



Jason Smith
Member of Congress



Brian Higgins
Member of Congress



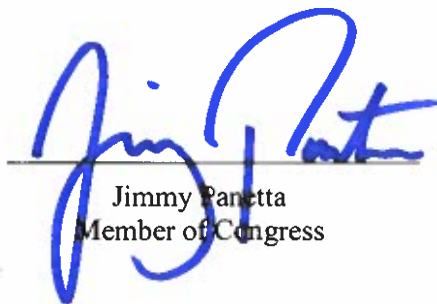
Tom Reed
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Dan Kildee
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Mike Kelly
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Jackie Walorski
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Ron Estes
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