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United States Senators John Hoeven, R-N.D., and Maria Cantwell, D-Wash., have introduced a bill to modify new IRS rules they say make it too difficult for family farmers and small business owners to deduct equipment repair and supply expenses.

The bill goes to the Committee on Finance, where Cantwell serves. It could become an amendment to larger tax legislation, or some other vehicle. Hoeven is working to solve the issue for 2014 tax purposes, which won't be prepared until next fall.

On Sept. 19, the IRS issued a final regulation on how the agency will treat such expenses, and it went into effect Jan. 1. Hoeven says the rule's $500 safe harbor for expensing repairs is too low. If the repair cost exceeds the $500 threshold, among other requirements, the farm or small business must hire a public accounting firm to expense costs, Hoeven says. His and Cantwell's bill would eliminate the $500 threshold and establish a $5,000 safe harbor election, to more closely reflect the actual cost of items. Safe harbor is the amount a farmer can expense for tax purposes without having to depreciate it over a number of years, as though it were a larger expense.

The IRS rules also set a safe harbor threshold at $200 for materials and supplies, which is too low for things such as hydraulic fluids, air filters and pest control chemicals, among other things.

Rob Holcomb, University of Minnesota Extension regional educator in Marshall, Minn., and director of the university's Income Tax Short Course, says the rules have been clarified, but people are concerned about the dollar amounts. Holcomb says some larger dairies are using Certified Public Accountants for multi-million-dollar

Mike Ness, vice president of tax for AgCountry Farm Credit Services of Fargo, says he's happy the senators are working on the issue. AgCountry is advising that a repair is "still allowed no matter what the dollar amount." He says Hoeven's bill would help some. He says the limit is per item, which is significant because if the farmer buys 10 items of $5,000 or less, each would have its own limitation.

The high cost of equipment for agriculture demands higher expensing limits, Ness says.

'Onerous'

Hoeven calls the new IRS requirements "onerous" and says small businesses with $10 million or less in gross receipts should be exempted. On Jan. 8, Hoeven had sent a letter to John Koskinene, IRS commissioner, saying the regulations merited some "clarification." The regulations "not only supplant 40 years of relevant case law, but also bring substantial negative consequences for small businesses," Hoeven wrote.

There was no response to that letter, so Hoeven launched the legislative fix, a spokesman says.

Further complicating the issue is the fact that Section 179 tax rules involving writing off expense levels have changed, Holcomb says. Those rules are designed to fast-track write-offs of farm machinery for depreciation purposes. Levels went from $500,000 at the end of 2013 to $25,000 in 2014 for a whole farm. This means farms currently don't have the ability to write-off larger amounts of capital assets as they have in the past.

Ness acknowledges that reducing the quick depreciation from the $500,000 level is probably expected, in that it was initially set that high to add a financial stimulus to the economy after the 9/11 attacks in 2001 — more than 12 years ago. He says reducing that back to the $25,000, however, is “definitely too drastic” and should be

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