



Bill Analysis

Author: Eggman

Sponsor:

Bill Number: AB 2243

Analyst: Davi Milam

Phone: (916) 845-2551

Introduced: February 13,
2020

Attorney: Shane Hofeling

Related Bills: See Legislative
History

SUBJECT

Credit for agriculture product donations to food banks

SUMMARY

This bill would, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), modify the credit for agriculture product donations to food banks (Agriculture Product Donations Credit) by extending by five years the date the credit becomes inoperative.

The bill also would extend for five years the Franchise Tax Board's (FTB) existing reporting requirement for the Agriculture Product Donations Credit.

RECOMMENDATION

No position

SUMMARY OF AMENDMENTS

None noted.

REASON FOR THE BILL

The reason for the bill is to encourage additional donations to food banks by extending the Agriculture Product Donations Credit.

ANALYSIS

This bill would, under the PITL and the CTL, modify the Agriculture Product Donations Credit by extending for five years the date the credit becomes inoperative to taxable years beginning before January 1, 2027, and the repeal date to December 1, 2027.

The existing FTB reporting requirement to the Legislature would be extended five years and would become inoperative January 1, 2026.

Effective/Operative Date

As a tax levy, this bill would be effective immediately upon enactment and extend the operative date for taxable years beginning before January 1, 2027.

Federal/State Law

Under current federal law, in general, a deduction is permitted for charitable contributions, subject to limitations dependent upon the type of taxpayer, the property contributed, and the donee organization. The amount of any deduction generally equals the fair market value of the contributed property on the date of the contribution.

California's PITL generally conforms to the federal rules relating to charitable contributions as of the specified date of January 1, 2015, but specifically does not conform to the enhanced deduction for a contribution of food inventory. The deduction under the PITL for charitable contributions of inventory is limited to the taxpayer's basis in the inventory, generally its cost. Additionally, the state's CTL does not adopt the general federal rules that allow enhanced deductions for C-corporation contributions of inventory, and does not adopt the enhanced deduction for a contribution of food inventory. The deduction under the CTL for contributions of inventory is limited to the taxpayer's basis in the inventory (generally its cost), and may not exceed ten percent of the corporation's net income. Any excess may be carried forward for up to five years.

For taxable years beginning on or after January 1, 2020, and before January 1, 2022, current state law allows the Agriculture Product Donations Credit equal to 15 percent of the qualified value of the qualified donation of fresh fruits or fresh vegetables and other specified agricultural products or processed foods.

The qualified taxpayer is required to provide to the food bank the qualified value of the qualified donation items and information regarding the origin of where the qualified donations items were grown, processed, or both grown and processed.

Upon receipt and acceptance of the donation items, the food bank provides a certificate to the qualified taxpayer. The certificate must contain a statement signed and dated by a person authorized by the food bank that the donation items are accepted. The certificate also contains the type and quantity of items donated, the name of the qualified taxpayer or qualified taxpayers, the name and address of the food bank, and, as provided by the qualified taxpayer, the origin of the donated items, and the qualified value of the donated items.

Upon request of the FTB, the qualified taxpayer is required to provide a copy of the certification to the FTB.

The credit may only be claimed on a timely filed original return, and any excess credit may be carried over for up to seven years or until exhausted.

The FTB is required to report to the Legislature specified items, including qualified value of the qualified donated items, the county in which the qualified donation items originated, and the month the donation was made. The reporting requirement will become inoperative January 1, 2026, pursuant to Government Code section 10231.5.

The credit will remain in effect until December 1, 2027, and be repealed as of that date.

Implementation Considerations

Implementing this bill would not significantly impact the department's programs and operations.

Technical Considerations

For grammatical consistency, a comma should be inserted after "2026" on page 4, line 22.

Policy Concerns

None noted.

LEGISLATIVE HISTORY

AB 614 (Eggman, et al., Chapter 431, Statutes of 2019), expanded the existing credit for donations of fruits and vegetables to a credit for donations of agriculture products by expanding the products eligible for the credit.

SB 837 (Committee on Budget and Fiscal Review, Chapter 32, Statutes of 2016), for taxable years beginning on or after January 1, 2017, and before January 1, 2022, created a credit for donations of fresh fruits and vegetables equal to 15 percent of the value of the products donated.

AB 515 (Eggman, et al., 2015/2016), would have recast the donated fresh fruits or vegetables credit as the agriculture product donation to food bank credit. AB 515 was vetoed by the Governor, along with other tax credit bills, due to concerns related to the state's budget.

AB 152 (Fuentes, et al., Chapter 503, Statutes of 2011), created the donated fresh fruits or vegetables credit under the PITL and the CTL. This credit allows a 10 percent credit for donations of fresh fruits and vegetables made to a qualified nonprofit entity.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

The department’s costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 2243 as Introduced February 13, 2020
Assumed Enactment after June 30, 2020

(\$ in Dollars)

Fiscal Year	Revenue
2020-2021	-\$0
2021-2022	-\$100,000
2022-2023	-\$250,000

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

Revenue Discussion

Based on data from the California Association of Food Banks, it is estimated that \$3.4 million in qualified donations would be made in 2020. Applying the credit rate of 15 percent results in estimated credits generated of \$510,000 in tax year 2020. The credits generated were adjusted to reflect changes in the economy over time, resulting in an estimated credits generated of \$550,000 in taxable year 2022, the first tax year under the extension proposal. Using current fruit and vegetables credit data, of the new generated amount, it is estimated that 90 percent of taxpayers, including the S corporation adjustment, would have a tax liability to offset with the credit. Of that amount, 50 percent, or \$250,000, would claim the credit in the year generated and the remaining credit would be used over the subsequent four years.

To arrive at the offsetting tax effect of the expense deduction that would otherwise be allowed under current law, it is estimated that qualified taxpayers would be unable to deduct approximately \$500,000 in qualified expenses in taxable year 2022. Applying an average tax rate of 6 percent, results in an offsetting revenue gain of approximately \$30,000. The net revenue loss is estimated to be \$220,000 in taxable year 2022. It is assumed that 80 percent of the credit would be used by personal income taxpayers and the remaining 20 percent would be used by corporations.

The tax year estimates are converted to fiscal year estimates, and then rounded to arrive at the amounts reflected in the above table.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE STAFF CONTACT

Davi Milam
Legislative Analyst, FTB
(916) 845-2251
davi.milam@ftb.ca.gov

Tiffany Christiansen
Revenue Manager, FTB
(916) 845-5346
tiffany.christiansen@ftb.ca.gov

Annette Kunze
Legislative Director, FTB
(916) 845-6333
annette.kunze@ftb.ca.gov