



## Bill Analysis

Author: Eggman, et al.

Sponsor:

Bill Number: SB 240

Related Bills: See Legislative  
History

Amended: March 10, 2021

### 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 the date the credit becomes inoperative by five years.

The bill would also 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

The March 10, 2021, amendments modify FTB's annual reporting requirement to the Legislature and added coauthors.

### 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 the sunset date for five years to taxable years beginning before January 1, 2027, and the repeal date to December 1, 2027.

The existing annual FTB reporting requirement to the Legislature would also be extended five years.

*Effective/Operative Date*

As a tax levy, this bill would be effective immediately upon enactment and extend the operation of the provision until 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 current reporting requirement will become inoperative January 1, 2021, pursuant to Government Code section 10231.5.

Under current law, the credit will remain in effect until December 1, 2022, and be repealed as of that date.

#### *Implementation Considerations*

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

#### *Technical Considerations*

None noted.

#### *Policy Considerations*

None noted.

### **LEGISLATIVE HISTORY**

AB 279 (Burke, et al., 2019/2020), this bill would have, under the PITL, replaced the FTB's mandated annual reporting requirement on the utilization of the credit for donated fresh fruits or vegetables to instead be two reports, the first due on or before December 1, 2019, and the second due on or before July 1, 2020. AB 279 did not pass by the constitutional deadline.

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.

AB 2243 (Eggman, et al., 2019/2020), would have modified the credit for agriculture product donations to food banks (Agriculture Product Donations Credit) by extending by five years the date the credit becomes inoperative. AB 2243 did not pass out of the Assembly Revenue and Taxation Committee.

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 SB 240 as Amended March, 10, 2021  
Assumed Enactment after June 30, 2021

(\$ in Dollars)

Fiscal Year	Revenue
2021-2022	-\$100,000
2022-2023	-\$250,000
2023-2024	-\$350,000

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 \$3.6 million in qualified donations would be made in 2021. Applying the credit rate of 15 percent results in estimated credits generated of \$540,000 in tax year 2021. The credits generated were adjusted to reflect changes in the economy over time, resulting in estimated credits generated of \$500,000 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 95 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 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 85 percent of the credit would be used by personal income taxpayers and the remaining 15 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 CONTACT**

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