



Bill Analysis

Author: Alvarado-Gil, et al.

Sponsor:

Bill Number: SB 353

Related Bills: See Legislative
History

Introduced: February 12, 2025

SUBJECT

Extend the New Donated Fresh Fruits or Vegetables to a Food Bank Tax Credit

SUMMARY

This bill would, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), extend the credit for agriculture product donations to food banks (New Donated Fresh Fruits and Vegetables Credit) indefinitely.

RECOMMENDATION

No position—The three-member Franchise Tax Board has not formally voted or taken a position on this bill.

SUMMARY OF AMENDMENTS

Not applicable.

REASON FOR THE BILL

The reason for the bill is to encourage additional donations to food banks.

ANALYSIS

This bill would, under the PITL and the CTL, modify the New Donated Fresh Fruits and Vegetables Credit by removing the sunset date, thereby extending the credit indefinitely.

Effective/Operative Date

As a tax levy, this bill would be effective immediately upon enactment and operative on January 1, 2025.

*Federal/State Law**Federal Law*

There is no comparable federal tax credit.

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.

State Law

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 corporate 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 10% 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, 2027, current state law allows the New Donated Fresh Fruits and Vegetables Credit equal to 15% 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 donated 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 Franchise Tax Board (FTB), the qualified taxpayer is required to provide a copy of the certification to the FTB.

The credit is nonrefundable and cannot reduce the following taxes:

- Alternative minimum tax (corporations, exempt organizations, individuals, and fiduciaries).
- Minimum franchise tax (corporations, S corporations, and limited liability companies treated as corporations).
- Annual tax (limited partnerships, limited liability partnerships, and limited liability companies classified as partnerships).
- Built-in gains tax (S corporations).
- Excess net passive income tax (S corporations).

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

The FTB is required to report certain information relating to the use of the New Donated Fresh Fruits and Vegetables Credit to the Legislature on or before December 1, 2019, and each December 1 thereafter. This reporting requirement becomes inoperative on January 1, 2026.

Implementation Considerations

None noted.

Technical Considerations

None noted.

Policy Considerations

FTB has identified the following consideration and is available to work with the author's office to resolve these and other considerations that may be identified.

The bill includes Revenue and Taxation Code section 41 requirements that require FTB to report certain information relating to the use of this credit. Although the bill would make permanent the credit, the reporting requirement would become inoperative on January 1, 2026. If this is contrary to the author's intent, the author may wish to amend the bill.

LEGISLATIVE HISTORY

AB 150 (Assembly Committee on Budget, Chapter 82, Statutes of 2021), among other things, under the PITL and the CTL, modified the credit for agricultural product donations to food banks by extending the operative date by five years, and extended the FTB's existing Section 41 reporting requirement for this credit by five years.

SB 240 (Eggman, et al., 2021/2022), under the PITL and the CTL, 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. SB 240 was ordered to the inactive file and did not pass out of the Senate Appropriations Committee.

PROGRAM BACKGROUND

None noted.

OTHER STATES' INFORMATION

None noted.

FISCAL IMPACT

FTB's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be determined.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of SB 353 as Introduced on February 12, 2025
Assumed Enactment after June 30, 2025

(\$ in Millions)

Fiscal Year	Revenue
2025-2026	\$0.0
2026-2027	-\$0.4
2027-2028	-\$1.0

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.

LEGAL IMPACT

None noted.

EQUITY IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

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