

LC004427

IN GENERAL ASSEMBLY

RELATING TO TAXATION -- TAX CREDIT FOR FOOD DONATION

Referred To: Senate Finance

19 (3) "Division" means the division of taxation.

1 (4) "Good Samaritan reduced price" means a price that is an amount not greater than the
2 cost of handling, administering, harvesting, processing, packaging, transporting, and distributing
3 the apparently wholesome food.

4 (5) "Nonprofit organization" means a nonprofit organization that is exempt from federal
5 taxation pursuant to § 501(c)(3) of the Federal Internal Revenue Code, 26 U.S.C. § 501(c)(3) that:

6 (i) Operates for religious, charitable, or educational purposes;

7 (ii) Does not provide net earnings to, or operate in any other manner that inures to the
8 benefit of, any officer, employee, or shareholder of the entity; and

9 (6) "Qualified taxpayer" means a corporation, partnership, organization, or association,
10 including a food producer, retail grocer, wholesaler, hotel, motel, manufacturer, restaurant, caterer,
11 farmer, nonprofit food distributor, or hospital.

12 **44-33.7-2. Credit for food donation.**

13 (a) For taxable years beginning on or after January 1, 2027, any qualified taxpayer that
14 donates apparently wholesome food to a nonprofit organization shall be allowed a credit to be
15 computed as provided in this chapter against a tax imposed by chapters 11, 14, 17, and 30 of this
16 title, for the taxable year of the donation. The qualified taxpayer shall be allowed a credit in an
17 amount equal to seventy-five percent (75%) of the fair market value of such apparently wholesome
18 food. This credit shall not exceed five thousand dollars (\$5,000) per tax year.

19 (b) Credits shall be allowed under this section only if:

20 (1) The use of the donated food by the donee nonprofit organization is related to providing
21 food to the needy; and

22 (2) The donated food, if sold by the donee nonprofit organization, is provided to or sold to
23 the needy or other nonprofit organizations that intend to use the food to provide food to the needy
24 at no cost or at a Good Samaritan reduced price.

25 (c) Upon receipt of the donated food, the nonprofit organization shall provide a certificate
26 to the qualified taxpayer, which shall contain the name of the qualified taxpayer, the name and
27 address of the donee nonprofit organization, the date of the donation, the type and quantity of
28 donated food, and, as provided by the qualified taxpayer, the fair market value of the donated food.
29 The certificate shall also include a statement by the donee nonprofit organization that its use and
30 disposition of the donated food complies with the requirements under subsection (b) of this section.
31 The certificate shall also include a statement by the donee nonprofit organization that the donation
32 meets the definition of apparently wholesome food.

33 (d) For every taxable year for which a qualified taxpayer seeks a tax credit under this
34 chapter, the person shall apply to the division in accordance with the forms, instructions, dates, and

1 procedures prescribed by the division.

2 **44-33.7-3. Limit on tax credit.**

3 (a) The amount of the credit claimed under § 44-33.7-2(a) shall not exceed the total amount
4 of tax imposed upon the qualified taxpayer for the taxable year. Any credit not usable for the taxable
5 year for which the credit was first allowed may be carried over for credit against the income taxes
6 of the qualified taxpayer in the next five (5) succeeding taxable years or until the total amount of
7 the tax credit has been taken, whichever is sooner.

8 (b) Credits granted to a partnership, limited liability company, or electing small business
9 corporation (S corporation) shall be allocated to the individual partners, members, or shareholders,
10 respectively, in proportion to their ownership or interest in such business entities.

11 (c) Any tax credits claimed shall not reduce a corporation's tax liability below the state
12 corporate minimum tax. Pursuant to chapter 14 of title 44, any tax credits claimed shall not reduce
13 the tax liability of a bank below the bank excise minimum tax.

14 **44-33.7-4. Promulgation of rules and regulations.**

15 (a) The division shall be authorized to develop guidelines, rules or regulations
16 implementing the provisions of this chapter. The guidelines, rules and regulations shall include
17 procedures for the allocation of tax credits among qualified taxpayers.

18 (b) The division shall not be responsible for determining whether a donation consists of
19 apparently wholesome food.

20 **44-33.7-5. Reporting requirements.**

21 Using information available to the division, the division shall report to the general
22 assembly, annually, through the division of taxation's testimony at a revenue estimating
23 conference, regarding the use of the credit authorized under this chapter. The report shall include,
24 at a minimum, the credits generated in the taxable year, the credits claimed in the taxable year, and
25 the number of qualified taxpayer claimed credits.

26 SECTION 2. This act shall take effect on January 1, 2027.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TAXATION -- TAX CREDIT FOR FOOD DONATION

- 1 This act would provide a tax credit for food donations by qualified taxpayers to nonprofit
2 organizations up to five thousand dollars (\$5,000) per year.
3 This act would take effect on January 1, 2027.

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