

2023 -- H 5803

LC001865

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TAXATION -- TAX CREDIT FOR FOOD DONATION

Introduced By: Representatives McEntee, Cortvriend, Fogarty, Edwards, Bennett,
Morales, Caldwell, Dawson, Sanchez, and J. Lombardi

Date Introduced: February 22, 2023

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 44 of the General Laws entitled "TAXATION" is hereby amended by
2 adding thereto the following chapter:

3 CHAPTER 33.7

4 TAX CREDIT FOR FOOD DONATION

5 **44-33.7-1. Definitions.**

6 As used in this chapter:

7 (1) "Apparently wholesome food" means food that is fit for human consumption at the time
8 it was donated as long as it meets all safety and safety-related standards required by federal, state,
9 and local laws regardless of compliance with any laws, rules or ordinances regulating the packaging
10 or labeling of food which are not linked to food safety. "Apparently wholesome food" includes
11 food that is not readily marketable due to appearance; age; freshness, including bearing a past-date
12 quality date, sell-by date, or other date; grade; size; surplus; or other condition. "Apparently
13 wholesome food" does not include canned goods that are leaking, swollen, dented on a seam, or no
14 longer airtight.

15 (2) "Donate" means to give without requiring anything of monetary value from the
16 recipient.

17 (3) "Department" means the department of revenue.

18 (4) "Nonprofit organization" means an incorporated or unincorporated entity that:

19 (i) Is operating for religious, charitable, or educational purposes; and

1 (ii) Does not provide net earnings to, or operate in any other manner that inures to the
2 benefit of, any officer, employee, or shareholder of the entity.

3 (5) "Qualified taxpayer" means an individual, corporation, partnership, organization,
4 association, or governmental entity, including a producer, retail grocer, wholesaler, hotel, motel,
5 manufacturer, restaurant, caterer, farmer, school food authority, institute of higher education,
6 nonprofit food distributor, or hospital.

7 **44-33.7-2. Credit for food donation.**

8 (a) For taxable years beginning on or after January 1, 2024, any qualified taxpayer that
9 donates apparently wholesome food shall be allowed a credit to be computed as provided in this
10 chapter against a tax imposed by chapters 11, 14, 17, and 30 of this title, for the taxable year of the
11 donation. The qualified taxpayer shall be allowed a credit in an amount equal to seventy-five
12 percent (75%) of the fair market value of such apparently wholesome food. This credit shall not
13 exceed five thousand dollars (\$5,000) per tax year.

14 (b) In the case of a qualified taxpayer who transports any apparently wholesome food
15 donated in accordance with subsection (a) of this section for taxable years beginning on or after
16 January 1, 2024, there shall be allowed a credit to be computed as provided in this chapter against
17 a tax imposed by chapters 11, 14, 17, and 30 of this title, for the taxable year of the donation. The
18 qualified taxpayer shall be allowed a credit in an amount equal to fifty percent (50%) of the
19 transportation costs (or any portion thereof) paid or incurred by the qualified taxpayer with respect
20 to the conveyance of a donated food, including the coordination or arrangement of transportation
21 services, in connection with the transportation of that qualified donated food item. This credit shall
22 not exceed five thousand dollars (\$5,000) per tax year.

23 (c) Credits shall be allowed under this section only if:

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

26 (2) The donated food, if sold by the donee nonprofit organization, is sold to the needy or
27 other nonprofit organizations that intend to use the food to provide food to the needy at a charge
28 sufficient only to cover the cost of transporting and handling such food.

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

1 (e) For every taxable year for which a qualified taxpayer seeks a tax credit under this
2 chapter, the person shall apply to the department in accordance with the forms, instructions, dates,
3 and procedures prescribed by the department.

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

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

12 (h) The department shall be authorized to develop guidelines or regulations implementing
13 the provisions of this chapter. The guidelines and regulations shall include procedures for the
14 allocation of tax credits among qualified taxpayers.

15 (i) Using information available to the department, and as provided pursuant to subsection
16 (e) of this section, the department shall report to the general assembly, annually, regarding the use
17 of the credit authorized under this section. The report shall include, at a minimum, the credits
18 generated in the taxable year, the credits claimed in the taxable year, and the number of qualified
19 taxpayer claimed credits.

20 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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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.

3 This act would take effect upon passage.

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