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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

RELATING TO TAXATION -- TAX CREDIT FOR FOOD DONATION

Introduced By: Representatives McEntee, Fogarty, Tanzi, Cortvriend, McGaw, Knight,
Handy, Casimiro, Edwards, and Spears

Date Introduced: March 05, 2024

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" as stipulated
11 in the Bill Emerson Good Samaritan Food Donation Act is defined as "food that meets all quality
12 and labeling standards imposed by federal, state, and local laws and regulations, even though the
13 food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other
14 conditions." "Apparently wholesome food" does not include canned goods that are leaking,
15 swollen, dented on a seam, or no longer airtight.

16 (2) "Donate" means to give without requiring anything of monetary value from the
17 recipient, except that the term shall include giving food, notwithstanding that the donor receives or
18 charges a Good Samaritan reduced price.

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 an individual, corporation, partnership, organization,
10 association, or governmental entity, including a producer, retail grocer, wholesaler, hotel, motel,
11 manufacturer, restaurant, caterer, farmer, school food authority, institute of higher education,
12 nonprofit food distributor, or hospital.

13 **44-33.7-2. Credit for food donation.**

14 (a) For taxable years beginning on or after January 1, 2025, any qualified taxpayer that
15 donates apparently wholesome food shall be allowed a credit to be computed as provided in this
16 chapter against a tax imposed by chapters 11, 14, 17, and 30 of this title, for the taxable year of the
17 donation. The qualified taxpayer shall be allowed a credit in an amount equal to seventy-five (75%)
18 percent of the fair market value of such apparently wholesome food. This credit shall not exceed
19 five thousand dollars (\$5,000) per tax year.

20 (b) In the case of a qualified taxpayer who transports any apparently wholesome food
21 donated in accordance with subsection (a) of this section for taxable years beginning on or after
22 January 1, 2025, there shall be allowed a credit to be computed as provided in this chapter against
23 a tax imposed by chapters 11, 14, 17, and 30 of this title, for the taxable year of the donation. The
24 qualified taxpayer shall be allowed a credit in an amount equal to fifty (50%) percent of the
25 transportation costs (or any portion thereof) paid or incurred by the qualified taxpayer with respect
26 to the conveyance of a donated food, including the coordination or arrangement of transportation
27 services, in connection with the transportation of that qualified donated food item. This credit shall
28 not exceed five thousand dollars (\$5,000) per tax year. This credit shall only be allowed if the
29 qualified taxpayer does not receive anything of monetary value, including receipt of a Good
30 Samaritan reduced price.

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

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

34 (2) The donated food, if sold by the donee nonprofit organization, is provided to or sold to

1 the needy or other nonprofit organizations that intend to use the food to provide food to the needy
2 at no cost or at a Good Samaritan reduced price.

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

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

12 **44-33.7-3. Limit on tax credit.**

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

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

21 (c) Any tax credits claimed shall not reduce a corporation's tax liability below the state
22 corporate minimum tax.

23 (d) This chapter amends § 44-30-2.6 to add the tax credit for food donation as an allowable
24 credit against personal income tax.

25 **44-33.7-4. Promulgation of rules and regulations.**

26 The division shall be authorized to develop guidelines, rules or regulations implementing
27 the provisions of this chapter. The guidelines, rules and regulations shall include procedures for the
28 allocation of tax credits among qualified taxpayers.

29 **44-33.7-5. Reporting requirements.**

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

1 SECTION 2. Chapter 44-30 of the General Laws entitled "Personal Income Tax" is hereby
2 amended by adding thereto the following section:

3 **44-30-28. Food donation tax credit.**

4 [Pursuant to the provisions of chapter 33.7 of title 44, an entity or individual shall be entitled](#)
5 [to an income tax credit for the donation of food up to five thousand dollars \(\\$5,000\) per year.](#)

6 SECTION 3. This act shall take effect on January 1, 2025.

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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, 2025.

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