

SUMMARY ANALYSIS OF AMENDED BILL

Author: Eggman, et al. Analyst: Jessica Deitchman Bill Number: AB 515
 Related Bills: See Prior Analysis Telephone: 845-6310 Amended Date: May 4, 2015
 Attorney: Bruce Langston Sponsor _____

SUBJECT:	Agricultural Product Donation to Food Bank Credit
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SUMMARY

This bill would, under the Personal Income Tax Law (PITL) and Corporation Tax Law (CTL), recast the existing Donated Fresh Fruits or Vegetables Credit (Fruits and Vegetables Credit) as an Agriculture Product Donation to Food Bank Credit (Agriculture Product Donation Credit).

This analysis only addresses the provisions of the bill that impact the department’s programs and operations.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The May 4, 2015, amendments modified the percentage used in the calculation of the Agriculture Donation Credit. As a result of the amendments, the "This Bill," and "Economic Impact" sections have been revised. The remainder of the department’s analysis of this bill as amended on April 20, 2015, still applies.

The "Technical Considerations" and "Fiscal Impact," sections remain unchanged and are restated for convenience.

THIS BILL

This bill would, under the PITL and the CTL, recast the existing Fruits and Vegetables Credit to an Agriculture Product Donation Credit for taxable years beginning on or after January 1, 2016, and before January 1, 2021.

This Agriculture Product Donation Credit would be allowed to a qualified taxpayer that donates to a food bank any qualified donation items that are accepted by that food bank located in California.¹ The credit shall be equal to 15 percent of the qualified value of the qualified donation items, but in no event would this amount be less than the amount that would otherwise be available under the Fruits and Vegetables Credit (Chapter 503 of the statutes of 2011).

¹ Under Chapter 5 (Commencing with Section 58501) of Part 1 of Division 21 of the Food and Agricultural Code.

Board Position:	Legislative Director	Date
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“Qualified donation item” would mean fresh fruits or fresh vegetables and the following raw agricultural products or processed foods:

- “Fruits, nuts or vegetables, as defined in Section 42510 of the Food and Agriculture (F & A) Code.”
- “Meat food product, as defined in Section 18665 of the F & A Code.”
- “Poultry, as defined in Section 18675 of the F & A Code.”
- “Eggs, as defined in Section 75027 of the F & A Code.”
- “Fish, as defined in Section 58609 of the F & A Code.”

“Qualified donation item” may also be any of the following foods as defined in Section 109935 of the Health and Safety Code.²

- Rice.
- Beans.
- Fruit, nuts, and vegetables in canned, frozen, dried, dehydrated, and 100 percent juice forms.
- Any cheese, milk, yogurt, butter, and dehydrated milk, meeting the requirements of Division 15 commencing with Section 32501 of the F & A Code.
- Infant Formula, subject to Section 114904.5 of the Health and Safety Code.
- Vegetable oil and olive oil.
- Soup, pasta sauce, and salsa.
- Bread and pasta.
- Canned meats and canned seafood.

“Qualified taxpayer” would mean the person responsible for planting a crop, managing the crop, harvesting the crop from land, growing or raising a qualified donation item, or harvesting, packing or processing a qualified donation item.

“Qualified Value” would mean either of the following:

- The qualified value would be calculated by using the weighted average wholesale sale price based on the qualified taxpayer’s total wholesale sales of the donated item sold within the calendar month of the qualified taxpayer’s donation.
- If no wholesale sales of the donated item have occurred in the calendar month of the qualified taxpayer’s donation, the qualified value would be equal to the nearest regional wholesale market price for the calendar month of the donation based upon the same grade products as published by the United States Department of Agriculture’s Agricultural Marketing Service, or its successor.

² Which defines “food as “any article used or intended for use for food, drink, confection, condiment, or chewing gum by man or other animal, or any article used or intended for use as a component of any of the items previously listed”.

If the credit allowed by this bill is claimed by the qualified taxpayer, any deduction otherwise allowed would be reduced by the amount of the credit.

The donor would provide to the food bank the qualified value of the donation items and information regarding the origin of where the donations items were grown, processed, or both grown and processed.

Upon receipt and acceptance of the donation items, the food bank would provide a certificate to the donor. The certificate would contain a statement signed and dated by a person authorized by the food bank that the donation items are accepted. The certificate would also contain the type, grade, and quantity of items donated, the name of the donor or donors, the name and address of the food bank, and, as provided by the donor, 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 would provide a copy of the certification to the FTB.

The credit may be carried over for up to seven years or until exhausted.

The FTB would continue to report to the legislature on or before December 1, 2014, and each December 1 thereafter until January 1, 2020, but the report would now include the estimated value of the qualified donated items and the origin of the qualified donation items.

This credit would remain in effect only until December 1, 2021, and as of that date is repealed.

TECHNICAL CONSIDERATIONS

For consistency, replace the words “donor” or “donors” with “qualified taxpayer” throughout the bill.

To clarify the operative date, the following amendments are recommended:

On page 5, between line 14 and line 15, insert:

(i) The amendments to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 2016.

On page 7, between line 21 and line 22, insert:

(g) The amendments to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 2016.

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 and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 515 As Amended May 4, 2015 Assumed Enactment After June 30, 2015 (\$ in Millions)		
2015-16	2016-17	2017-18
- \$0.4	- \$1.0	- \$1.4

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

Using data on food bank donations it was estimated that qualified taxpayers would have made \$8.5 million in qualified donations in 2014. This was grown by the Department of Finance growth rate and results in an estimated \$9 million of food donations in 2016. The estimate assumes the expanded credit would increase donations by 10 percent bringing total donations to \$10 million in 2016. Applying the credit rate of 15 percent results in estimated credits generated of \$1.5 million. Using the current Fruits and Vegetables Credit data, it was estimated that 75 percent of the credit would be used in the year generated and the remaining 25 percent would be used over the next 5 years. Because the bill would disallow a deduction for qualified donations used to generate the credit, an offsetting gain is applied to account for the decrease in reported deductions. Lastly, the estimate is adjusted to eliminate the loss attributable to the current Fruits and Vegetable Credit, resulting in a net \$700 thousand loss for taxable year 2016.

The tax year estimates are split between personal income taxpayers and corporate taxpayers, converted to fiscal year estimates, and then rounded to arrive at the estimates shown in the table above.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

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