

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 515

Introduced by Assembly Member Eggman

February 23, 2015

An act to amend ~~Section~~ Sections 17053.88 and 23688 of the Revenue and Taxation Code, and to amend Section 18995 of, and to amend the heading of Chapter 14.5 (commencing with Section 18995) of Part 6 of Division 9 of, the Welfare and Institutions Code, relating to ~~taxation~~ food banks.

LEGISLATIVE COUNSEL'S DIGEST

AB 515, as amended, Eggman. ~~Personal income tax credit: Income taxes: credits:~~ food bank donations.

~~The~~

(1) *The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including, for taxable years beginning on or after January 1, 2012, and before January 1, 2017, a credit for qualified taxpayers, as defined as the person responsible for planting a crop, managing the crop, and harvesting the crop from the land, in an amount equal to a specified percentage 10% of the cost that would otherwise be included in, or required to be included in, inventory costs, as specified under federal law, with respect to the donation of fresh fruits or fresh vegetables to food banks located in California.*

This bill would, under both laws, expand the credit to apply to the donation of qualified donation items, defined as raw or processed agricultural products. The bill would expand the definition of qualified taxpayer to also include the person responsible for growing or raising

a qualified donation item, or harvesting, packing, or processing a qualified donation item. The bill would modify the credit amount to instead equal 20% of the qualified value, as defined, of the qualified donation items. The bill would extend the operation of the credit to taxable years before January 1, 2024. The bill would make various conforming changes and would also make a nonsubstantive change to the personal income tax provision.

(2) Existing law requires the State Department of Social Services to establish and administer the State Emergency Food Assistance Program (SEFAP), to provide food and funding for the provision of emergency food to food banks, as provided. Existing law creates the State Emergency Food Assistance Program Account and would, upon appropriation by the Legislature, allocate the moneys in the account to SEFAP and require that those moneys be used for the purchase, storage, and transportation of food grown or produced in California and for the department’s administrative costs.

This bill would rename the State Emergency Food Assistance Program (SEFAP) as the CalFood Program and would rename the State Emergency Food Assistance Program Account as the CalFood Account. The bill would make other conforming changes in this regard.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17053.88 of the Revenue and Taxation
 2 Code is amended to read:
 3 17053.88. (a) In the case of a qualified taxpayer ~~who that~~
 4 ~~donates fresh fruits or fresh vegetables~~ to a food bank *any qualified*
 5 *donation items that are accepted by that food bank* located in
 6 California under Chapter 5 (commencing with Section 58501) of
 7 Part 1 of Division 21 of the Food and Agricultural Code, for taxable
 8 years beginning on or after January 1, 2012, and before January
 9 1, ~~2017~~, 2024, there shall be allowed, without regard to the
 10 taxpayer’s method of accounting, as a credit against the “net tax”
 11 (as defined by Section 17039), an amount equal to ~~10 percent of~~
 12 ~~the cost that would otherwise be included in inventory costs under~~
 13 ~~Section 263A of the Internal Revenue Code, or that would be~~
 14 ~~required to be included in inventory costs under Section 263A of~~
 15 ~~the Internal Revenue Code, but for the exception for farming~~

1 ~~businesses contained in Section 263A(d) of the Internal Revenue~~
2 ~~Code, with respect to those fresh fruits or fresh vegetables. 20~~
3 ~~percent of the qualified value of the qualified donation items, but~~
4 ~~in no event shall this amount be less than the amount that would~~
5 ~~otherwise be available under this section as added by Chapter 503~~
6 ~~of the Statutes of 2011.~~

7 (b) For purposes of this section, ~~“qualified the following~~
8 ~~definitions shall apply:~~

9 (1) *“Qualified donation item” means fresh fruits or fresh*
10 *vegetables and the following raw or processed agricultural*
11 *products:*

12 (A) *All of the following:*

13 (i) *“Fruits, nuts, or vegetables” as defined in Section 42510 of*
14 *the Food and Agricultural Code.*

15 (ii) *“Meat food product” as defined in Section 18665 of the*
16 *Food and Agricultural Code.*

17 (iii) *“Poultry” as defined in Section 18675 of the Food and*
18 *Agricultural Code.*

19 (iv) *“Eggs” as defined in Section 75027 of the Food and*
20 *Agricultural Code.*

21 (v) *“Fish” as defined in Section 58609 of the Food and*
22 *Agricultural Code.*

23 (B) *All of the following food as defined in Section 109935 of*
24 *the Health and Safety Code:*

25 (i) *Rice.*

26 (ii) *Beans.*

27 (iii) *Fruit, nuts, and vegetables in canned, frozen, dried,*
28 *dehydrated, and 100 percent juice forms.*

29 (iv) *Cheese, milk (cow or goat), yogurt, butter, dehydrated milk,*
30 *and infant formula from licensed sources.*

31 (v) *Vegetable oil and olive oil.*

32 (vi) *Shelf stable ready-to-eat products, limited to soup, pasta*
33 *sauce, ketchup, salsa, and salad dressings.*

34 (vii) *Bread, pasta, or cereal.*

35 (viii) *Canned meats and canned seafood.*

36 (2) *“Qualified taxpayer” means the person responsible for*
37 *planting a crop, managing the crop, and harvesting the crop from*
38 *land, growing or raising a qualified donation item, or harvesting,*
39 *packing, or processing a qualified donation item.*

40 (3) *“Qualified value” means either of the following:*

1 (A) *The qualified value shall be calculated by using the weighted*
 2 *average wholesale sale price based on the qualified taxpayer's*
 3 *total wholesale sales of the donated item sold within the calendar*
 4 *month of the qualified taxpayer's donation.*

5 (B) *If no wholesale sales of the donated item have occurred in*
 6 *the calendar month of the qualified taxpayer's donation, the*
 7 *qualified value shall be equal to the nearest regional wholesale*
 8 *market price for the calendar month of the donation based upon*
 9 *the same grade products as published by the United States*
 10 *Department of Agriculture's Agricultural Marketing Service, or*
 11 *its successor. This subparagraph does not apply if the United*
 12 *States Department of Agriculture's Agricultural Marketing Service*
 13 *or its successor requires payment for use of their services.*

14 (c) *If the credit allowed by this section is claimed by the*
 15 *qualified taxpayer, any deduction otherwise allowed under this*
 16 *part for that amount of the cost paid or incurred by the qualified*
 17 *taxpayer that is eligible for the credit shall be reduced by the*
 18 *amount of the credit provided in subdivision (a).*

19 (d) ~~The donor shall provide to the nonprofit organization food~~
 20 ~~bank the estimated qualified value of the donated fresh fruits or~~
 21 ~~fresh vegetables donation items and information regarding the~~
 22 ~~origin of where the donated fruits or vegetables were donation~~
 23 ~~items were grown, and upon processed, or both grown and~~
 24 ~~processed. Upon receipt and acceptance of the donated fresh fruits~~
 25 ~~or fresh vegetables, the nonprofit organization donation items, the~~
 26 ~~food bank shall provide a certificate to the donor. The certificate~~
 27 ~~shall contain a statement signed and dated by a person authorized~~
 28 ~~by that organization that the product is donated the food bank that~~
 29 ~~the donation items are accepted under Chapter 5 (commencing~~
 30 ~~with Section 58501) of Part 1 of Division 21 of the Food and~~
 31 ~~Agricultural Code. The certificate shall also contain the type, grade,~~
 32 ~~and quantity of product items donated, the name of the donor or~~
 33 ~~donors, the name and address of the donee nonprofit organization,~~
 34 ~~food bank, and, as provided by the donor, the estimated value of~~
 35 ~~the donated fresh fruits or fresh vegetables and its origins. the~~
 36 ~~origin of the donated items, and the qualified value of the donated~~
 37 ~~items, as described in subdivision (a).~~ Upon the request of the
 38 Franchise Tax Board, the qualified taxpayer shall provide a copy
 39 of the certification to the Franchise Tax Board.

1 (e) In the case where the credit allowed by this section exceeds
2 the “net tax,” the excess may be carried over to reduce the “net
3 tax” in the following year, and for the six succeeding years if
4 necessary, until the credit has been exhausted.

5 (f) Using the information available to the Franchise Tax Board
6 from the certificates required under subdivision (d) and subdivision
7 (d) of Section 23688, the Franchise Tax Board shall report to the
8 Legislature on or before December 1, 2014, and each December
9 1 thereafter until the inoperative date specified in *paragraph (2)*
10 *of subdivision (g), regarding the utilization of the credit authorized*
11 *by this section and Section 23688. The 23688. The Franchise Tax*
12 *Board shall also include in the report the estimated value of the*
13 *fresh fruits and fresh vegetables donated, the county in which the*
14 *products originated, qualified donation items, the origin of the*
15 *qualified donation items, and the month the donation was made.*

16 (g) (1) A report required to be submitted pursuant to subdivision
17 (f) shall be submitted in compliance with Section 9795 of the
18 Government Code.

19 (2) The requirement for submitting a report imposed under
20 subdivision (f) is inoperative on January 1, ~~2016~~, 2023, pursuant
21 to Section 10231.5 of the Government Code.

22 (h) This section shall remain in effect only until December 1,
23 ~~2017~~, 2024, and as of that date is repealed.

24 *SEC. 2. Section 23688 of the Revenue and Taxation Code is*
25 *amended to read:*

26 23688. (a) In the case of a qualified taxpayer ~~who~~ *that* donates
27 ~~fresh fruits or fresh vegetables~~ to a food bank *any qualified*
28 *donation items that are accepted by that food bank* located in
29 California under Chapter 5 (commencing with Section 58501) of
30 Part 1 of Division 21 of the Food and Agricultural Code, for taxable
31 years beginning on or after January 1, 2012, and before January
32 1, ~~2017~~, 2024, there shall be allowed, without regard to the
33 taxpayer’s method of accounting, as a credit against the “tax” (as
34 defined by Section 23036), an amount equal to ~~10 percent of the~~
35 ~~cost that would otherwise be included in inventory costs under~~
36 ~~Section 263A of the Internal Revenue Code, or that would be~~
37 ~~required to be included in inventory costs under Section 263A of~~
38 ~~the Internal Revenue Code, but for the exception for farming~~
39 ~~businesses contained in Section 263A(d) of the Internal Revenue~~
40 ~~Code, with respect to those fresh fruits or fresh vegetables. 20~~

1 percent of the qualified value of the qualified donation items, but
2 in no event shall this amount be less than the amount that would
3 otherwise be available under this section as added by Chapter 503
4 of the Statutes of 2011.

5 (b) For purposes of this section, ~~“qualified taxpayer”~~ the
6 following definitions shall apply:

7 (1) “Qualified donation item” means fresh fruits or fresh
8 vegetables and the following raw or processed agricultural
9 products:

10 (A) All of the following:

11 (i) “Fruits, nuts, or vegetables” as defined in Section 42510 of
12 the Food and Agricultural Code.

13 (ii) “Meat food product” as defined in Section 18665 of the
14 Food and Agricultural Code.

15 (iii) “Poultry” as defined in Section 18675 of the Food and
16 Agricultural Code.

17 (iv) “Eggs” as defined in Section 75027 of the Food and
18 Agricultural Code.

19 (v) “Fish” as defined in Section 58609 of the Food and
20 Agricultural Code.

21 (B) All of the following food as defined in Section 109935 of
22 the Health and Safety Code:

23 (i) Rice.

24 (ii) Beans.

25 (iii) Fruit, nuts, and vegetables in canned, frozen, dried,
26 dehydrated, and 100 percent juice forms.

27 (iv) Cheese, milk (cow or goat), yogurt, butter, dehydrated milk,
28 and infant formula from licensed sources.

29 (v) Vegetable oil and olive oil.

30 (vi) Shelf stable ready-to-eat products, limited to soup, pasta
31 sauce, ketchup, salsa, and salad dressings.

32 (vii) Bread, pasta, or cereal.

33 (viii) Canned meats and canned seafood.

34 (2) “Qualified taxpayer” means the person responsible for
35 planting a crop, managing the crop, ~~and~~ harvesting the crop from
36 ~~land~~ land, growing or raising a qualified donation item, or
37 harvesting, packing, or processing a qualified donation item.

38 (3) “Qualified value” means either of the following:

39 (A) The qualified value shall be calculated by using the weighted
40 average wholesale sale price based on the qualified taxpayer’s

1 *total wholesale sales of the donated item sold within the calendar*
2 *month of the qualified taxpayer's donation.*

3 (B) *If no wholesale sales of the donated item have occurred in*
4 *the calendar month of the qualified taxpayer's donation, the*
5 *qualified value shall be equal to the nearest regional wholesale*
6 *market price for the calendar month of the donation based upon*
7 *the same grade products as published by the United States*
8 *Department of Agriculture's Agricultural Marketing Service, or*
9 *its successor. This subparagraph does not apply if the United*
10 *States Department of Agriculture's Agricultural Marketing Service*
11 *or its successor requires payment for use of their services.*

12 (c) *If the credit allowed by this section is claimed by the*
13 *qualified taxpayer, any deduction otherwise allowed under this*
14 *part for that amount of the cost paid or incurred by the qualified*
15 *taxpayer that is eligible for the credit shall be reduced by the*
16 *amount of the credit provided in subdivision (a).*

17 (d) *The donor shall provide to the ~~nonprofit organization~~ food*
18 *bank the ~~estimated~~ qualified value of the ~~donated fresh fruits or~~*
19 *~~fresh vegetables~~ donation items and information regarding the*
20 *origin of where the ~~donated fruits or vegetables~~ donation items*
21 *were grown, ~~and upon~~ processed, or both grown and processed.*
22 *Upon receipt and acceptance of the ~~donated fresh fruits or fresh~~*
23 *~~vegetables, the nonprofit organization~~ donation items, the food*
24 *bank shall provide a certificate to the donor. The certificate shall*
25 *contain a statement signed and dated by a person authorized by*
26 *that organization that the product is donated ~~the food bank that the~~*
27 *donation items are accepted under Chapter 5 (commencing with*
28 *Section 58501) of Part 1 of Division 21 of the Food and*
29 *Agricultural Code. The certificate shall also contain the type, grade,*
30 *and quantity of ~~product~~ items donated, the name of the donor or*
31 *donors, the name and address of the ~~donee nonprofit organization,~~*
32 *food bank, and, as provided by the donor, ~~the estimated value of~~*
33 *~~the donated fresh fruits or fresh vegetables and its origins. the~~*
34 *origin of the donated items, and the qualified value of the donated*
35 *items, as described in subdivision (a). Upon the request of the*
36 *Franchise Tax Board, the qualified taxpayer shall provide a copy*
37 *of the certification to the Franchise Tax Board.*

38 (e) *In the case where the credit allowed by this section exceeds*
39 *the "tax," the excess may be carried over to reduce the "tax" in*

1 the following year, and for the six succeeding years if necessary,
2 until the credit has been exhausted.

3 (f) This section shall remain in effect only until December 1,
4 2017, 2024, and as of that date is repealed.

5 *SEC. 3. The heading of Chapter 14.5 (commencing with Section*
6 *18995) of Part 6 of Division 9 of the Welfare and Institutions Code*
7 *is amended to read:*

8
9 CHAPTER 14.5. ~~THE STATE EMERGENCY FOOD ASSISTANCE~~
10 CALFOOD PROGRAM
11

12 *SEC. 4. Section 18995 of the Welfare and Institutions Code is*
13 *amended to read:*

14 18995. (a) On and after January 1, ~~2012~~, ~~the State Department~~
15 ~~of Social Services shall establish and administer~~ 2016, the State
16 Emergency Food Assistance Program—~~(SEFAP)~~: (*SEFAP*),
17 *administered by the State Department of Social Services, shall be*
18 *renamed as the “CalFood Program.” The—SEFAP CalFood*
19 *Program shall provide food and funding for the provision of*
20 *emergency food to food banks established pursuant to the federal*
21 *Emergency Food Assistance Program (7 C.F.R. Parts 250 and 251)*
22 *whose ongoing primary function is to facilitate the distribution of*
23 *food to low-income households.*

24 (b) ~~The State Emergency Food Assistance Program CalFood~~
25 *Account is hereby established in the Emergency Food Assistance*
26 *Program Fund established pursuant to Section 18852 of the*
27 *Revenue and Taxation Code, and may receive federal funds and*
28 *voluntary donations or contributions.*

29 (c) Notwithstanding Section 18853 of the Revenue and Taxation
30 Code, the following shall apply:

31 (1) All moneys received by the ~~State Emergency Food~~
32 ~~Assistance Program CalFood~~ Account shall, upon appropriation
33 by the Legislature, be allocated to the State Department of Social
34 Services for allocation to the ~~SEFAP CalFood Program~~ and, with
35 the exception of those contributions made pursuant to Section
36 18851 of the Revenue and Taxation Code and funds received
37 through Parts 250 and 251 of Title 7 of the Code of Federal
38 Regulations, shall be used for the purchase, storage, and
39 transportation of food grown or produced in California. Storage

1 and transportation expenditures shall not exceed 10 percent of the
2 ~~SEFAP CalFood Program~~ fund's annual budget.

3 (2) Notwithstanding paragraph (1), funds received by the ~~State~~
4 ~~Emergency Food Assistance Program~~ *CalFood* Account shall,
5 upon appropriation by the Legislature, be allocated to the State
6 Department of Social Services for allocation to the ~~SEFAP~~
7 *CalFood Program* as described in paragraph (1), and shall, in part,
8 be used to pay for the department's administrative costs associated
9 with the administration of the ~~SEFAP~~ *CalFood Program*.

O