

AMENDED IN ASSEMBLY APRIL 7, 2015  
AMENDED IN ASSEMBLY MARCH 26, 2015  
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 515**

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**Introduced by Assembly Member Eggman**

February 23, 2015

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An act to amend 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 food banks.

LEGISLATIVE COUNSEL'S DIGEST

AB 515, as amended, Eggman. Income taxes: credits: food bank donations.

(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, defined as the person responsible for planting a crop, managing the crop, and harvesting the crop from the land, in an amount equal to 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: 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 that donates  
 4 to a food bank any qualified donation items that are accepted by  
 5 that food bank located in California under Chapter 5 (commencing  
 6 with Section 58501) of Part 1 of Division 21 of the Food and  
 7 Agricultural Code, for taxable years beginning on or after January  
 8 1, 2012, and before January 1, 2024, there shall be allowed, without  
 9 regard to the taxpayer’s method of accounting, as a credit against  
 10 the “net tax” (as defined by Section 17039), an amount equal to  
 11 20 percent of the qualified value of the qualified donation items,  
 12 but in no event shall this amount be less than the amount that would  
 13 otherwise be available under this section as added by Chapter 503  
 14 of the Statutes of 2011.

1 (b) For purposes of this section, the following definitions shall  
2 apply:

3 (1) “Qualified donation item” means fresh fruits or fresh  
4 vegetables and the following raw or processed agricultural  
5 products:

6 (A) All of the following:

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

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

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

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

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

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

19 (i) Rice.

20 (ii) Beans.

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

23 (iv) ~~Cheese, milk (cow or goat), Any cheese, milk, yogurt, butter,~~  
24 ~~and dehydrated milk, and infant formula from licensed sources.~~  
25 *milk meeting the requirements in Division 15 (commencing with*  
26 *Section 32501) of the Food and Agricultural Code.*

27 (v) *Infant formula subject to Section 114094.5 of the Health*  
28 *and Safety Code.*

29 ~~(v)~~

30 (vi) Vegetable oil and olive oil.

31 ~~(vi)~~

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

34 ~~(vii)~~

35 (viii) Bread, pasta, or cereal.

36 ~~(viii)~~

37 (ix) Canned meats and canned seafood.

38 (2) “Qualified taxpayer” means the person responsible for  
39 planting a crop, managing the crop, harvesting the crop from land,

1 growing or raising a qualified donation item, or harvesting,  
2 packing, or processing a qualified donation item.

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

4 (A) The qualified value shall be calculated by using the weighted  
5 average wholesale sale price based on the qualified taxpayer’s  
6 total wholesale sales of the donated item sold within the calendar  
7 month of the qualified taxpayer’s donation.

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

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

22 (d) The donor shall provide to the food bank the qualified value  
23 of the donation items and information regarding the origin of where  
24 the donation items were grown, processed, or both grown and  
25 processed. Upon receipt and acceptance of the 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 the food bank that the donation items are accepted under  
29 Chapter 5 (commencing with Section 58501) of Part 1 of Division  
30 21 of the Food and Agricultural Code. The certificate shall also  
31 contain the type, grade, and quantity of items donated, the name  
32 of the donor or donors, the name and address of the food bank,  
33 and, as provided by the donor, the origin of the donated items, and  
34 the qualified value of the donated items, as described in subdivision

35 (a). Upon the request of the Franchise Tax Board, the qualified  
36 taxpayer shall provide a copy of the certification to the Franchise  
37 Tax Board.

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

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

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

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

16 (2) The requirement for submitting a report imposed under  
17 subdivision (f) is inoperative on January 1, 2023, pursuant to  
18 Section 10231.5 of the Government Code.

19 (h) This section shall remain in effect only until December 1,  
20 2024, and as of that date is repealed.

21 SEC. 2. Section 23688 of the Revenue and Taxation Code is  
22 amended to read:

23 23688. (a) In the case of a qualified taxpayer that donates to  
24 a food bank any qualified donation items that are accepted by that  
25 food bank located in California under Chapter 5 (commencing  
26 with Section 58501) of Part 1 of Division 21 of the Food and  
27 Agricultural Code, for taxable years beginning on or after January  
28 1, 2012, and before January 1, 2024, there shall be allowed, without  
29 regard to the taxpayer’s method of accounting, as a credit against  
30 the “tax” (as defined by Section 23036), an amount equal to 20  
31 percent of the qualified value of the qualified donation items, but  
32 in no event shall this amount be less than the amount that would  
33 otherwise be available under this section as added by Chapter 503  
34 of the Statutes of 2011.

35 (b) For purposes of this section, the following definitions shall  
36 apply:

37 (1) “Qualified donation item” means fresh fruits or fresh  
38 vegetables and the following raw or processed agricultural  
39 products:

40 (A) All of the following:

- 1 (i) “Fruits, nuts, or vegetables” as defined in Section 42510 of  
2 the Food and Agricultural Code.
- 3 (ii) “Meat food product” as defined in Section 18665 of the  
4 Food and Agricultural Code.
- 5 (iii) “Poultry” as defined in Section 18675 of the Food and  
6 Agricultural Code.
- 7 (iv) “Eggs” as defined in Section 75027 of the Food and  
8 Agricultural Code.
- 9 (v) “Fish” as defined in Section 58609 of the Food and  
10 Agricultural Code.
- 11 (B) All of the following food as defined in Section 109935 of  
12 the Health and Safety Code:
- 13 (i) Rice.
- 14 (ii) Beans.
- 15 (iii) Fruit, nuts, and vegetables in canned, frozen, dried,  
16 dehydrated, and 100 percent juice forms.
- 17 (iv) ~~Cheese, milk (cow or goat), Any cheese, milk, yogurt, butter,~~  
18 ~~and dehydrated milk, and infant formula from licensed sources.~~  
19 *milk meeting the requirements in Division 15 (commencing with*  
20 *Section 32501) of the Food and Agricultural Code.*
- 21 (v) *Infant formula subject to Section 114094.5 of the Health*  
22 *and Safety Code.*
- 23 ~~(v)~~
- 24 (vi) Vegetable oil and olive oil.
- 25 ~~(vi)~~
- 26 (vii) Shelf stable ready-to-eat products, limited to soup, pasta  
27 sauce, ketchup, salsa, and salad dressings.
- 28 ~~(vii)~~
- 29 (viii) Bread, pasta, or cereal.
- 30 ~~(viii)~~
- 31 (ix) Canned meats and canned seafood.
- 32 (2) “Qualified taxpayer” means the person responsible for  
33 planting a crop, managing the crop, harvesting the crop from land,  
34 growing or raising a qualified donation item, or harvesting,  
35 packing, or processing a qualified donation item.
- 36 (3) “Qualified value” means either of the following:
- 37 (A) The qualified value shall be calculated by using the weighted  
38 average wholesale sale price based on the qualified taxpayer’s  
39 total wholesale sales of the donated item sold within the calendar  
40 month of the qualified taxpayer’s donation.

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

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

15 (d) The donor shall provide to the food bank the qualified value  
16 of the donation items and information regarding the origin of where  
17 the donation items were grown, processed, or both grown and  
18 processed. Upon receipt and acceptance of the donation items, the  
19 food bank shall provide a certificate to the donor. The certificate  
20 shall contain a statement signed and dated by a person authorized  
21 by the food bank that the donation items are accepted under  
22 Chapter 5 (commencing with Section 58501) of Part 1 of Division  
23 21 of the Food and Agricultural Code. The certificate shall also  
24 contain the type, grade, and quantity of items donated, the name  
25 of the donor or donors, the name and address of the food bank,  
26 and, as provided by the donor, the origin of the donated items, and  
27 the qualified value of the donated items, as described in subdivision  
28 (a). Upon the request of the Franchise Tax Board, the qualified  
29 taxpayer shall provide a copy of the certification to the Franchise  
30 Tax Board.

31 (e) In the case where the credit allowed by this section exceeds  
32 the "tax," the excess may be carried over to reduce the "tax" in  
33 the following year, and for the six succeeding years if necessary,  
34 until the credit has been exhausted.

35 (f) This section shall remain in effect only until December 1,  
36 2024, and as of that date is repealed.

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

## CHAPTER 14.5. THE CALFOOD PROGRAM

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

18995. (a) On and after January 1, 2016, the State Emergency Food Assistance Program (SEFAP), administered by the State Department of Social Services, shall be renamed as the “CalFood Program.” The CalFood Program shall provide food and funding for the provision of emergency food to food banks established pursuant to the federal Emergency Food Assistance Program (7 C.F.R. Parts 250 and 251) whose ongoing primary function is to facilitate the distribution of food to low-income households.

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

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

(1) All moneys received by the CalFood Account shall, upon appropriation by the Legislature, be allocated to the State Department of Social Services for allocation to the CalFood Program and, with the exception of those contributions made pursuant to Section 18851 of the Revenue and Taxation Code and funds received through Parts 250 and 251 of Title 7 of the Code of Federal Regulations, shall be used for the purchase, storage, and transportation of food grown or produced in California. Storage and transportation expenditures shall not exceed 10 percent of the CalFood Program fund’s annual budget.

(2) Notwithstanding paragraph (1), funds received by the CalFood Account shall, upon appropriation by the Legislature, be allocated to the State Department of Social Services for allocation to the CalFood Program as described in paragraph (1), and shall, in part, be used to pay for the department’s administrative costs associated with the administration of the CalFood Program.

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