

AMENDED IN ASSEMBLY MAY 4, 2015

AMENDED IN ASSEMBLY APRIL 20, 2015

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**  
**(Coauthors: Assembly Members Brough, Chávez, Dodd, and Olsen)**  
(Coauthor: Senator Galgiani)

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, under both laws, would expand the credit to apply to the donation of qualified donation items, defined as raw agricultural products or processed foods. 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%~~ 15% 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, 2021. 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, upon appropriation by the Legislature, would 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, 2021, there shall be allowed, without  
9 regard to the taxpayer's method of accounting, as a credit against

1 the “net tax” (as defined by Section 17039), an amount equal to  
2 20 15 percent of the qualified value of the qualified donation items,  
3 but in no event shall this amount be less than the amount that would  
4 otherwise be available under this section as added by Chapter 503  
5 of the Statutes of 2011.

6 (b) For purposes of this section, the following definitions shall  
7 apply:

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

11 (A) All of the following:

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

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

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

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

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

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

24 (i) Rice.

25 (ii) Beans.

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

28 (iv) Any cheese, milk, yogurt, butter, and dehydrated milk  
29 meeting the requirements in Division 15 (commencing with Section  
30 32501) of the Food and Agricultural Code.

31 (v) Infant formula subject to Section 114094.5 of the Health  
32 and Safety Code.

33 (vi) Vegetable oil and olive oil.

34 (vii) Soup, pasta sauce, and salsa.

35 (viii) Bread and pasta.

36 (ix) Canned meats and canned seafood.

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

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

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

6 (B) If no wholesale sales of the donated item have occurred in  
7 the calendar month of the qualified taxpayer’s donation, the  
8 qualified value shall be equal to the nearest regional wholesale  
9 market price for the calendar month of the donation based upon  
10 the same grade products as published by the United States  
11 Department of Agriculture’s Agricultural Marketing Service, or  
12 its successor.

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

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

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

38 (f) Using the information available to the Franchise Tax Board  
39 from the certificates required under subdivision (d) and subdivision  
40 (d) of Section 23688, the Franchise Tax Board shall report to the

1 Legislature on or before December 1, 2014, and each December  
2 1 thereafter until the inoperative date specified in paragraph (2)  
3 of subdivision (g), regarding the utilization of the credit authorized  
4 by this section and Section 23688. The Franchise Tax Board shall  
5 also include in the report the estimated value of the qualified  
6 donation items, the origin of the qualified donation items, and the  
7 month the donation was made.

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

11 (2) The requirement for submitting a report imposed under  
12 subdivision (f) is inoperative on January 1, 2020, pursuant to  
13 Section 10231.5 of the Government Code.

14 (h) This section shall be repealed on December 1, 2021.

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

17 23688. (a) In the case of a qualified taxpayer that donates to  
18 a food bank any qualified donation items that are accepted by that  
19 food bank located in California under Chapter 5 (commencing  
20 with Section 58501) of Part 1 of Division 21 of the Food and  
21 Agricultural Code, for taxable years beginning on or after January  
22 1, 2012, and before January 1, 2021, there shall be allowed, without  
23 regard to the taxpayer's method of accounting, as a credit against  
24 the "tax" (as defined by Section 23036), an amount equal to ~~20~~ 15  
25 percent of the qualified value of the qualified donation items, but  
26 in no event shall this amount be less than the amount that would  
27 otherwise be available under this section as added by Chapter 503  
28 of the Statutes of 2011.

29 (b) For purposes of this section, the following definitions shall  
30 apply:

31 (1) "Qualified donation item" means fresh fruits or fresh  
32 vegetables and the following raw agricultural products or processed  
33 foods:

34 (A) All of the following:

35 (i) "Fruits, nuts, or vegetables" as defined in Section 42510 of  
36 the Food and Agricultural Code.

37 (ii) "Meat food product" as defined in Section 18665 of the  
38 Food and Agricultural Code.

39 (iii) "Poultry" as defined in Section 18675 of the Food and  
40 Agricultural Code.

- 1 (iv) “Eggs” as defined in Section 75027 of the Food and
- 2 Agricultural Code.
- 3 (v) “Fish” as defined in Section 58609 of the Food and
- 4 Agricultural Code.
- 5 (B) All of the following food as defined in Section 109935 of
- 6 the Health and Safety Code:
- 7 (i) Rice.
- 8 (ii) Beans.
- 9 (iii) Fruit, nuts, and vegetables in canned, frozen, dried,
- 10 dehydrated, and 100 percent juice forms.
- 11 (iv) Any cheese, milk, yogurt, butter, and dehydrated milk
- 12 meeting the requirements in Division 15 (commencing with Section
- 13 32501) of the Food and Agricultural Code.
- 14 (v) Infant formula subject to Section 114094.5 of the Health
- 15 and Safety Code.
- 16 (vi) Vegetable oil and olive oil.
- 17 (vii) Soup, pasta sauce, and salsa.
- 18 (viii) Bread and pasta.
- 19 (ix) Canned meats and canned seafood.
- 20 (2) “Qualified taxpayer” means the person responsible for
- 21 planting a crop, managing the crop, harvesting the crop from land,
- 22 growing or raising a qualified donation item, or harvesting,
- 23 packing, or processing a qualified donation item.
- 24 (3) “Qualified value” means either of the following:
- 25 (A) The qualified value shall be calculated by using the weighted
- 26 average wholesale sale price based on the qualified taxpayer’s
- 27 total wholesale sales of the donated item sold within the calendar
- 28 month of the qualified taxpayer’s donation.
- 29 (B) If no wholesale sales of the donated item have occurred in
- 30 the calendar month of the qualified taxpayer’s donation, the
- 31 qualified value shall be equal to the nearest regional wholesale
- 32 market price for the calendar month of the donation based upon
- 33 the same grade products as published by the United States
- 34 Department of Agriculture’s Agricultural Marketing Service, or
- 35 its successor.
- 36 (c) If the credit allowed by this section is claimed by the
- 37 qualified taxpayer, any deduction otherwise allowed under this
- 38 part for that amount of the cost paid or incurred by the qualified
- 39 taxpayer that is eligible for the credit shall be reduced by the
- 40 amount of the credit provided in subdivision (a).

1 (d) The donor shall provide to the food bank the qualified value  
2 of the donation items and information regarding the origin of where  
3 the donation items were grown, processed, or both grown and  
4 processed. Upon receipt and acceptance of the donation items, the  
5 food bank shall provide a certificate to the donor. The certificate  
6 shall contain a statement signed and dated by a person authorized  
7 by the food bank that the donation items are accepted under  
8 Chapter 5 (commencing with Section 58501) of Part 1 of Division  
9 21 of the Food and Agricultural Code. The certificate shall also  
10 contain the type, grade, and quantity of items donated, the name  
11 of the donor or donors, the name and address of the food bank,  
12 and, as provided by the donor, the origin of the donated items, and  
13 the qualified value of the donated items, as described in subdivision  
14 (a). Upon the request of the Franchise Tax Board, the qualified  
15 taxpayer shall provide a copy of the certification to the Franchise  
16 Tax Board.

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

21 (f) This section shall be repealed on December 1, 2021.

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

25  
26 CHAPTER 14.5. THE CALFOOD PROGRAM

27  
28 SEC. 4. Section 18995 of the Welfare and Institutions Code is  
29 amended to read:

30 18995. (a) On and after January 1, 2016, the State Emergency  
31 Food Assistance Program (SEFAP), administered by the State  
32 Department of Social Services, shall be renamed as the “CalFood  
33 Program.” The CalFood Program shall provide food and funding  
34 for the provision of emergency food to food banks established  
35 pursuant to the federal Emergency Food Assistance Program (7  
36 C.F.R. Parts 250 and 251) whose ongoing primary function is to  
37 facilitate the distribution of food to low-income households.

38 (b) The CalFood Account is hereby established in the  
39 Emergency Food Assistance Program Fund established pursuant

1 to Section 18852 of the Revenue and Taxation Code, and may  
2 receive federal funds and voluntary donations or contributions.

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

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

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