

Assembly Bill No. 515

Passed the Assembly September 2, 2015

Chief Clerk of the Assembly

Passed the Senate September 1, 2015

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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 15% of the qualified value, as defined, of the qualified donation items, but not less than an amount that would otherwise be calculated and allowed under existing law. The bill would extend the operation of the credit to taxable years before January 1, 2021, and would require it to be claimed on a timely filed original return. 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.

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

SECTION 1. Section 17053.88 of the Revenue and Taxation Code is amended to read:

17053.88. (a) In the case of a qualified taxpayer that donates to a food bank any qualified donation items that are accepted by that food bank located in California under Chapter 5 (commencing with Section 58501) of Part 1 of Division 21 of the Food and Agricultural Code, for taxable years beginning on or after January 1, 2012, and before January 1, 2021, there shall be allowed, without regard to the taxpayer's method of accounting, as a credit against the "net tax" (as defined by Section 17039), an amount equal to 15 percent of the qualified value of the qualified donation items, but in no event shall this amount be less than the amount that otherwise would have been calculated and allowed under this section as added by Chapter 503 of the Statutes of 2011.

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

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

(A) All of the following:

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

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

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

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

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

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

(i) Rice.

(ii) Beans.

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

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

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

(vi) Vegetable oil and olive oil.

(vii) Soup, pasta sauce, and salsa.

(viii) Bread and pasta.

(ix) Canned meats and canned seafood.

(2) “Qualified taxpayer” means 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.

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

(A) The qualified value shall 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.

(B) If no wholesale sales of the donated item have occurred in the calendar month of the qualified taxpayer’s donation, the qualified value shall 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.

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

(d) The donor shall provide to the food bank the qualified value of the donation items and information regarding the origin of where the donation items were grown, processed, or both grown and processed. Upon receipt and acceptance of the donation items, the food bank shall provide a certificate to the donor. The certificate shall contain a statement signed and dated by a person authorized by the food bank that the donation items are accepted under Chapter 5 (commencing with Section 58501) of Part 1 of Division 21 of the Food and Agricultural Code. The certificate shall 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, as described in subdivision (a). Upon the request of the Franchise Tax Board, the qualified taxpayer shall provide a copy of the certification to the Franchise Tax Board.

(e) The credit allowed by this section may be claimed only on a timely filed original return.

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

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

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

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

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

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

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

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

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

(A) All of the following:

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

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

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

(iv) "Eggs" as defined in Section 75027 of the Food and Agricultural Code.

(v) "Fish" as defined in Section 58609 of the Food and Agricultural Code.

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

(i) Rice.

(ii) Beans.

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

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

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

(vi) Vegetable oil and olive oil.

(vii) Soup, pasta sauce, and salsa.

(viii) Bread and pasta.

(ix) Canned meats and canned seafood.

(2) “Qualified taxpayer” means 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.

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

(A) The qualified value shall 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.

(B) If no wholesale sales of the donated item have occurred in the calendar month of the qualified taxpayer’s donation, the qualified value shall 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.

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

(d) The donor shall provide to the food bank the qualified value of the donation items and information regarding the origin of where the donation items were grown, processed, or both grown and processed. Upon receipt and acceptance of the donation items, the food bank shall provide a certificate to the donor. The certificate shall contain a statement signed and dated by a person authorized by the food bank that the donation items are accepted under Chapter 5 (commencing with Section 58501) of Part 1 of Division 21 of the Food and Agricultural Code. The certificate shall 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, as described in subdivision

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

(e) The credit allowed by this section may be claimed only on a timely filed original return.

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

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

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

CHAPTER 14.5. THE CALFOOD PROGRAM

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.

Approved _____, 2015

Governor