

ASSEMBLY BILL

No. 2768

Introduced by Assembly Member Thurmond
(Coauthors: Assembly Members Dababneh and Rodriguez)
(Coauthors: Senators Hueso and Mendoza)

February 19, 2016

An act to add and repeal Sections 17053.90 and 23690 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2768, as introduced, Thurmond. Income and corporation taxes: credit: donation of food.

The Personal Income Tax Law and the Bank and Corporation Tax Law allow various credits against the taxes imposed by those laws, including a credit for a farmer to donate fresh foods and vegetables to a food bank.

This bill would allow a credit against those taxes for each taxable year, beginning on and after January 1, 2017, and before January 1, 2023, to a taxpayer that donates qualified food, as defined, of its trade or business to an organization located in California and exempt from federal income taxation, as specified.

This bill would take effect immediately as a tax levy.

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. The Legislature finds and declares the following:

1 (a) One out of every seven Californians does not know where
2 his or her next meal will come from.

3 (b) Two million three hundred thousand children in California
4 are food insecure, with one in four children going to bed hungry
5 each night.

6 (c) Although CalFresh is the state's most effective program to
7 address hunger in the state, serving 4,500,000 Californians, the
8 state's federal waiver to the three-month time limit for the federal
9 Able Bodied Adults Without Dependents in the Supplementary
10 Nutrition Assistance Program, known in California as CalFresh,
11 will expire in 2017. The expiration of the federal waiver is expected
12 to increase demand on local direct service organizations serving
13 food prepared for human consumption.

14 (d) California has been a leader in public-private partnerships
15 to reduce hunger. Examples of these partnerships include the
16 CalFresh Restaurant Meals Program and the California Association
17 of Food Banks' Farm to Family program.

18 (e) Given the growing need for hunger relief, restaurants and
19 grocers are trying to find a better way to redirect excess food to
20 the hungry, instead of landfills.

21 SEC. 2. Section 17053.90 is added to the Revenue and Taxation
22 Code, to read:

23 17053.90. (a) For taxable years beginning on or after January
24 1, 2017, and before January 1, 2023, in the case of a taxpayer that
25 donates qualified food of its trade or business to an organization
26 located in California that is exempt from federal income taxation
27 as an organization described in Section 501(c)(3) of the Internal
28 Revenue Code, there shall be allowed as a credit against the "net
29 tax," as defined in Section 17039, an amount equal to 10 percent
30 of the fair market value of the contribution.

31 (b) For purposes of this section, "qualified food" means
32 prepackaged food, as defined in Section 113876 of Health and
33 Safety Code, and food prepared for immediate human consumption,
34 including unspoiled fruits and vegetables.

35 (c) A deduction or credit shall not be allowed under this part
36 for amounts taken into account under this section in calculating
37 the credit allowed by this section.

38 (d) In the case where the credit allowed under this section
39 exceeds the net tax, the excess may be carried over to reduce the

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

3 (e) This section shall be repealed on December 1, 2023.

4 SEC. 3. Section 23690 is added to the Revenue and Taxation
5 Code, to read:

6 23690. (a) For taxable years beginning on or after January 1,
7 2017, and before January 1, 2023, in the case of a taxpayer that
8 donates qualified food from its trade or business to an organization
9 located in California that is exempt from federal income taxation
10 as an organization described in Section 501(c)(3) of the Internal
11 Revenue Code, there shall be allowed as a credit against the “tax,”
12 as defined in Section 23036, an amount equal to 15 percent of the
13 fair market value of the contribution.

14 (b) For purposes of this section, “qualified food” means
15 prepackaged food, as defined in Section 113876 of Health and
16 Safety Code, and food prepared for immediate human consumption,
17 including unspoiled fruits and vegetables.

18 (c) A deduction shall not be allowed under this part for amounts
19 taken into account under this section in calculating the credit
20 allowed by this section.

21 (d) In the case where the credit allowed under this section
22 exceeds the net tax, the excess may be carried over to reduce the
23 net tax in the following year, and for the eight succeeding years,
24 if necessary, until the credit has been exhausted.

25 (e) This section shall be repealed on December 1, 2023.

26 SEC. 4. It is the intent of the Legislature to comply with Section
27 41 of the Revenue and Taxation Code.

28 SEC. 5. This act provides for a tax levy within the meaning of
29 Article IV of the Constitution and shall go into immediate effect.