

AMENDED IN ASSEMBLY MAY 16, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2768**

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

February 19, 2016

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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 amended, 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:

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

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

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

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

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

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

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

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

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

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

5 ~~(d) The credit allowed by this section may be claimed only on~~  
 6 ~~a timely filed original return.~~

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

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

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

18 (b) For purposes of this section, “qualified food” means  
 19 prepackaged food, as defined in Section 113876 of Health and  
 20 Safety Code, ~~and or~~ food prepared for immediate human  
 21 consumption, including unspoiled fruits and vegetables.

22 (c) A deduction *or credit* shall not be allowed under this part  
 23 for amounts taken into account under this section in calculating  
 24 the credit allowed by this section.

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

29 ~~(d) The credit allowed by this section may be claimed only on~~  
 30 ~~a timely filed original return.~~

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

32 SEC. 4. It is the intent of the Legislature to comply with Section  
 33 41 of the Revenue and Taxation Code.

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

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