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AB-614 Income taxes: credits: food banks. (2019-2020)

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Assembly Bill No. 614

CHAPTER 431

An act to amend Sections 17053.88.5 and 23688.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 02, 2019. Filed with Secretary of State October 02, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 614, Eggman. Income taxes: credits: food banks.

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, 2017, and before January 1, 2022, 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 15% of the qualified value of fresh fruits or vegetables donated to a food bank.

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 include the person responsible for growing or raising a qualified donation item, or harvesting, packing, or processing a qualified donation item but would exclude a retailer, as defined, from that expanded definition. The bill would apply these provisions to taxable years beginning on or after January 1, 2020.

This bill would take effect immediately as a tax levy.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. It is the intent of the Legislature in enacting this act to expand the list of items that qualify for a tax credit because they were donated to a food bank.

SEC. 2. Section 17053.88.5 of the Revenue and Taxation Code is amended to read:

17053.88.5. (a) In the case of a qualified taxpayer who donates qualified donation items to a 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, 2017, and before January 1, 2022, there shall be allowed as a credit against the "net tax," defined by Section 17039, an amount equal to 15 percent of the qualified value of those qualified donation items.

(b) For purposes of this section:

(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) Fruits, 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) (A) "Qualified taxpayer" means the person responsible for planting a crop, managing the crop, and harvesting the crop from the land.

(B) (i) "Qualified taxpayer" also means the person responsible for growing or raising a qualified donation item, or harvesting, packing, or processing a qualified donation item, provided that person is not a retailer.

(ii) As used in this subparagraph, "retailer" means a person primarily engaged in the business of making retail sales directly to the public.

(3) (A) "Qualified value" shall be calculated by using the weighted average wholesale price based on the qualified taxpayer's total like grade 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 qualified taxpayer shall provide to the food bank the qualified value of the qualified donation items and information regarding the origin of where the qualified donation items were grown, processed, or both grown and processed. Upon receipt of the qualified donation items, the food bank shall provide a certificate to the qualified taxpayer. The certificate shall contain a statement signed and dated by a person authorized by that food bank that the item is donated 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 and quantity of items donated, the name of the qualified taxpayer or qualified taxpayers, the name and address of the food bank, and, as provided by the qualified taxpayer, the qualified value of the qualified donation items and their origins. 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) In accordance with Section 41, the purpose of the credit is to increase donations to food banks. Using the information available to the Franchise Tax Board from the certificates required under subdivision (d) and subdivision (d) of Section 23688.5, the Franchise Tax Board shall report to the Legislature on or before December 1, 2019, and each December 1 thereafter until the inoperative date specified in subdivision (h), regarding the utilization of the credit authorized by this section and Section 23688.5. The Franchise Tax Board shall also include in the report the qualified value of the qualified donation items, the county in which the qualified donation items originated, 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, 2021, pursuant to Section 10231.5 of the Government Code.

(i) This section shall be repealed on December 1, 2022.

(j) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 2020.

SEC. 3. Section 23688.5 of the Revenue and Taxation Code is amended to read:

23688.5. (a) In the case of a qualified taxpayer who donates qualified donation items to a 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, 2017, and before January 1, 2022, there shall be allowed as a credit against the "tax," defined by Section 23036, an amount equal to 15 percent of the qualified value of those qualified donation items.

(b) For purposes of this section:

(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) Fruits, 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) (A) "Qualified taxpayer" means the person responsible for planting a crop, managing the crop, and harvesting the crop from the land.

(B) (i) "Qualified taxpayer" also means the person responsible for growing or raising a qualified donation item, or harvesting, packing, or processing a qualified donation item, provided that person is not a retailer.

(ii) As used in this subparagraph, "retailer" means a person primarily engaged in the business of making retail sales directly to the public.

(3) (A) "Qualified value" shall be calculated by using the weighted average wholesale price based on the qualified taxpayer's total like grade 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 qualified taxpayer shall provide to the food bank the qualified value of the qualified donation items and information regarding the origin of where the qualified donation items were grown, processed, or both grown and processed. Upon receipt of the qualified donation items, the food bank shall provide a certificate to the qualified taxpayer. The certificate shall contain a statement signed and dated by a person authorized by that food bank that the item is donated 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 and quantity of items donated, the name of the qualified taxpayer or the qualified taxpayers, the name and address of the food bank, and, as provided by the qualified taxpayer, the qualified value of the qualified donation items and their origins. 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, 2022.

(h) The amendments made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 2020.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the California Constitution and shall go into immediate effect.