

STATE OF NEW YORK

8719--A

IN SENATE

January 7, 2026

Introduced by Sens. HINCHEY, CLEARE, COMRIE, FERNANDEZ, KRUEGER, SCARCELLA-SPANTON -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to establishing a tax credit for food service establishment donations to food pantries; and to amend the agriculture and markets law, in relation to promoting local procurement of ingredients by food service establishments

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 210-B of the tax law is amended by adding a new
2 subdivision 63 to read as follows:

3 63. Credit for food service establishment donations to food pantries.

4 (a) Allowance of credit. In the case of a taxpayer that is a food
5 service establishment, there shall be allowed a credit, to be computed
6 as hereinafter provided against the tax imposed by this article for
7 taxable years beginning on and after January first, two thousand twen-
8 ty-seven. The amount of the credit shall be fifty percent of the fair
9 market value of the taxpayer's qualified donations up to seven dollars
10 per qualified donation made to any eligible community-based organization
11 during the taxable year, not to exceed ten thousand dollars total per
12 taxable year. If the taxpayer is a partner in a partnership, then the
13 cap imposed by the preceding sentence shall be applied at the entity
14 level, so the aggregate credit allowed to all partners of such entity in
15 the taxable year does not exceed ten thousand dollars.

16 (b) Definitions. For the purposes of this subdivision, the following
17 terms shall have the following meanings:

18 (i) "Food service establishment" means a taxpayer whose federal gross
19 income from prepared food sales for the taxable year is at least half of
20 such taxpayer's federal gross income. Such taxpayer may be a corpo-
21 ration, partnership, or individual.

22 (ii) "Qualified donation" means a donation of a prepared meal adhering
23 to the standards of the most recent edition of the Dietary Guidelines

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 for Americans required by 7 U.S.C. § 5341. A qualified donation shall
2 not be transferred by the eligible food service establishment to the
3 eligible community-based organization in exchange for money, other prop-
4 erty, or services.

5 (iii) "Eligible community-based organization" means any program oper-
6 ating within this state that accepts or distributes prepared meals and
7 has qualified for tax exemption under section 501(c)(3) of the internal
8 revenue code.

9 (c) Record of donation. (i) To claim a credit under this subdivision,
10 a taxpayer must get and keep a receipt from the eligible community-based
11 organization showing: (1) the name of the eligible community-based
12 organization; (2) a geotag and time stamp showing the date and location
13 of the qualified donation; (3) a reasonably detailed description of the
14 qualified donation, including ingredients and meal composition; (4) the
15 signature of a representative of the eligible community-based organiza-
16 tion; (5) a photograph or photographs of the donated meals; (6) the
17 Internal Revenue Service employer identification number of both the food
18 service establishment and the eligible community-based organization; and
19 (7) the local health department rating or equivalent at the time the
20 donation was made.

21 (ii) A letter or other written communication from the eligible commu-
22 nity-based organization acknowledging receipt of the contribution and
23 containing the information in clauses one, two, and three of subpara-
24 graph (i) of this paragraph shall serve as a receipt.

25 (d) Application of credit. The credit allowed under this subdivision
26 for any taxable year shall not reduce the tax due for such year to less
27 than the amount prescribed in paragraph (d) of subdivision one of
28 section two hundred ten of this article. However, if the amount of cred-
29 it allowed under this subdivision for any taxable year reduces the tax
30 to such amount or if the taxpayer otherwise pays tax based on the fixed
31 dollar minimum amount, any amount of credit thus not deductible in such
32 taxable year shall be treated as an overpayment of tax to be credited or
33 refunded in accordance with the provisions of section one thousand
34 eighty-six of this chapter. Provided, however, the provisions of
35 subsection (c) of section one thousand eighty-eight of this chapter
36 notwithstanding, no interest shall be paid thereon.

37 (e) Authority to issue tax credit. Any city in this state having a
38 population of one million or more inhabitants, acting through its local
39 legislative body, is hereby authorized and empowered to adopt and amend
40 local laws and rules offering a tax credit according to the provisions
41 in this section for the city personal income tax under article thirty of
42 this chapter.

43 § 2. Section 606 of the tax law is amended by adding a new subdivision
44 (www) to read as follows:

45 (www) Credit for food service establishment donations to food
46 pantries. (1) General. In the case of a taxpayer that is a food service
47 establishment, there shall be allowed a credit, to be computed as here-
48 inafter provided against the tax imposed by this article for taxable
49 years beginning on and after January first, two thousand twenty-seven.
50 The amount of the credit shall be fifty percent of the fair market value
51 of the taxpayer's qualified donations up to seven dollars per qualified
52 donation made to any eligible community-based organization during the
53 taxable year, not to exceed ten thousand dollars total per taxable year.
54 If the taxpayer is a partner in a partnership or a shareholder of a New
55 York S corporation, then the cap imposed by the preceding sentence shall
56 be applied at the entity level, so that the aggregate credit allowed to

1 all partners or shareholders of such entity in the taxable year does not
2 exceed ten thousand dollars.

3 (2) Definitions. For purposes of this subdivision, the following terms
4 shall have the following meanings:

5 (A) "Food service establishment" means a taxpayer whose federal gross
6 income from prepared food sales for the taxable year is at least half of
7 such taxpayer's federal gross income. Such taxpayer may be a corpo-
8 ration, partnership, or individual.

9 (B) "Qualified donation" means a donation of a prepared meal adhering
10 to the standards of the most recent edition of the Dietary Guidelines
11 for Americans required by 7 U.S.C. § 5341. A qualified donation shall
12 not be transferred by the eligible food service establishment to the
13 eligible community-based organization in exchange for money, other prop-
14 erty, or services.

15 (C) "Eligible community-based organization" means any program operat-
16 ing within this state that accepts or distributes prepared meals and has
17 qualified for tax exemption under section 501(c)(3) of the internal
18 revenue code.

19 (3) Record of donation. To claim a credit under this subsection, a
20 taxpayer must get and keep a receipt from the eligible community-based
21 organization showing: (A) the name of the eligible community-based
22 organization; (B) a geotag and time stamp showing the date and location
23 of the qualified donation; (C) a reasonably detailed description of the
24 qualified donation, including ingredients and meal composition; (D) the
25 signature of a representative of the eligible community-based organiza-
26 tion; (E) a photograph or photographs of the donated meals; (F) the
27 Internal Revenue Service employer identification number of both the food
28 service establishment and the eligible community-based organization; and
29 (G) the local health department rating or equivalent at the time the
30 donation was made. A letter or other written communication from the
31 eligible community-based organization acknowledging receipt of the
32 contribution and containing the information in subparagraphs (A)-(G) of
33 this paragraph shall serve as a receipt for such purposes.

34 (4) Application of credit. A taxpayer shall be allowed a credit under
35 this subsection against the tax imposed by this article. However, if the
36 amount of credit allowed under this subsection for any taxable year
37 exceeds the taxpayer's tax for such year, the excess will be treated as
38 an overpayment of tax to be credited or refunded in accordance with the
39 provisions of section six hundred eighty-six of this article. Provided,
40 however, the provisions of subsection (c) of section six hundred eight-
41 y-eight of this article notwithstanding, no interest will be paid there-
42 on.

43 (5) Authority to issue tax credit. Any city in the state having a
44 population of one million or more inhabitants, acting through its local
45 legislative body, is hereby authorized and empowered to adopt and amend
46 local laws and rules offering a tax credit according to the provisions
47 in this section for the city personal income tax under article thirty of
48 this chapter.

49 § 3. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
50 of the tax law is amended by adding a new clause (liii) to read as
51 follows:

52 <u>(liii) Credit for food service</u>	<u>Amount of credit under</u>
53 <u>establishment donations to food</u>	<u>subdivision sixty-three of</u>
54 <u>pantries under subsection (www)</u>	<u>section two hundred ten-B</u>

55 § 4. Section 16 of the agriculture and markets law is amended by
56 adding a new subdivision 53 to read as follows:

1 53. Promote local procurement of ingredients, to the extent practica-
2 ble, by eligible food service establishments to be used when preparing
3 qualified donations pursuant to subdivision sixty-three of section two
4 hundred ten-B and subsection (www) of section six hundred six of the tax
5 law. The department may provide guidance and resources to assist eligi-
6 ble food service establishments in identifying in-state sources of
7 ingredients for purposes of preparing such qualified donations.

8 § 5. This act shall take effect immediately.