

STATE OF NEW YORK

8878

IN SENATE

January 13, 2026

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

AN ACT to amend the tax law, in relation to enacting the "New York state food rescue tax credit act"

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

- 1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York state food rescue tax credit act".
- 3 § 2. Legislative findings and intent. The legislature finds and
4 declares that:
- 5 1. New York generates over four million tons of food waste each year,
6 a significant portion of which is edible and suitable for donation.
- 7 2. Current tax law favors disposal over donation, as deductions for
8 waste disposal are often more financially advantageous than charitable
9 incentives for food donation.
- 10 3. Food insecurity affects more than 11 percent of New York house-
11 holds, a rate that has grown in recent years and is expected to rise
12 further due to federal reductions in SNAP benefits and potential
13 disruptions in federal nutrition programs.
- 14 4. It is therefore the intent of the legislature to establish a
15 refundable and transferable state tax credit to encourage businesses of
16 all sizes to donate surplus food and to offset the costs of storage,
17 transportation, and distribution.
- 18 5. This credit will strengthen New York's food assistance network,
19 reduce landfill waste and methane emissions, and ensure that nutritious
20 food reaches families in need instead of being discarded.
- 21 § 3. Section 210-B of the tax law is amended by adding a new subdivi-
22 sion 63 to read as follows:
- 23 63. Food rescue tax credit. (a) Definitions. For the purposes of this
24 subdivision, the following terms shall have the following meanings:
25 (i) "Eligible nonprofit food assistance organization" means a nonpro-
26 fit entity recognized under section 501(c)(3) of the United States
27 internal revenue code, or similarly recognized organization, that

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

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1 engages primarily in food rescue, recovery, or distribution to individ-
2 uals or families in need.

3 (ii) "Eligible taxpayer" includes food businesses, farmers, manufac-
4 turers, distributors, wholesalers, retailers, and any other business
5 entity engaged in the sale, manufacture, or distribution of food within
6 New York state.

7 (iii) "Qualified food donation" means any wholesome, edible food fit
8 for human consumption, including perishable and prepared foods, donated
9 in compliance with applicable state and federal food safety laws as
10 certified, measured, and accepted by a New York state charitable organ-
11 ization in good standing as defined by article seven-A of the executive
12 law.

13 (b) Allowance of credit. An eligible taxpayer subject to tax under
14 this article shall be allowed a credit against such tax in an amount
15 equal to:

16 (i) sixty-five percent of the fair market value of qualified food
17 donations made during the taxable year to an eligible nonprofit food
18 assistance organization; and

19 (ii) one hundred percent of documented transportation and storage
20 expenses directly attributable to such donations.

21 (c) Refundability and transferability. If the amount of credit allow-
22 able under this subdivision exceeds the eligible taxpayer's tax liabil-
23 ity for the taxable year, the excess shall be refundable. Alternatively,
24 an eligible taxpayer may transfer or assign the unused portion of such
25 credit to another eligible taxpayer, subject to regulations promulgated
26 by the commissioner.

27 (d) Limitations. (i) The aggregate amount of credits allowed under
28 this subdivision for all eligible taxpayers in any fiscal year shall not
29 exceed seventy-five million dollars statewide, unless increased by
30 appropriation.

31 (ii) The commissioner shall adopt rules and regulations governing
32 documentation, substantiation, transfer and application procedures to
33 ensure program integrity.

34 (iii) The department shall coordinate with the department of agricul-
35 ture and markets to verify the eligibility of nonprofit food recipients
36 and ensure donated food meets safety and quality standards.

37 § 4. Section 606 of the tax law is amended by adding a new subsection
38 (www) to read as follows:

39 (www) Food rescue tax credit. (1) Definitions. For the purposes of
40 this subsection, the following terms shall have the following meanings:

41 (A) "Eligible nonprofit food assistance organization" means a nonpro-
42 fit entity recognized under section 501(c)(3) of the United States
43 internal revenue code, or similarly recognized organization, in good
44 standing with the state of New York's charities bureau, that engages
45 primarily in food rescue, recovery, or distribution to individuals or
46 families in need.

47 (B) "Eligible taxpayer" includes food businesses, farmers, manufactur-
48 ers, distributors, wholesalers, retailers, and any other business entity
49 engaged in the sale, manufacture, or distribution of food within New
50 York state.

51 (C) "Qualified food donation" means any wholesome, edible food fit for
52 human consumption, including perishable and prepared foods, donated in
53 compliance with applicable state and federal food safety laws as certi-
54 fied, measured, and accepted by a New York state charitable organization
55 in good standing as defined by article seven-A of the executive law.

1 (2) Allowance of credit. An eligible taxpayer subject to tax under
2 this article shall be allowed a credit against such tax in an amount
3 equal to:

4 (A) sixty-five percent of the fair market value of qualified food
5 donations made during the taxable year to an eligible nonprofit food
6 assistance organization; and

7 (B) one hundred percent of documented transportation and storage
8 expenses directly attributable to such donations.

9 (3) Refundability and transferability. If the amount of credit allow-
10 able under this subsection exceeds the eligible taxpayer's tax liability
11 for the taxable year, the excess shall be refundable. Alternatively, an
12 eligible taxpayer may transfer or assign the unused portion of such
13 credit to another eligible taxpayer, subject to regulations promulgated
14 by the commissioner.

15 (4) Limitations. (A) The aggregate amount of credits allowed under
16 this subsection for all eligible taxpayers in any fiscal year shall not
17 exceed seventy-five million dollars statewide, unless increased by
18 appropriation.

19 (B) The commissioner shall adopt rules and regulations governing
20 documentation, substantiation, transfer and application procedures to
21 ensure program integrity.

22 (C) The department shall coordinate with the department of agriculture
23 and markets to verify the eligibility of nonprofit food recipients and
24 ensure donated food meets safety and quality standards.

25 (5) Partnerships and S corporations. In the case of a partnership or S
26 corporation, the credit provided for under this subsection shall be
27 passed through to partners, members, or shareholders in proportion to
28 their ownership interests in the entity.

29 § 5. The department of taxation and finance, in consultation with the
30 department of agriculture and markets, shall:

31 1. establish a standardized electronic reporting platform for busi-
32 nesses and eligible nonprofits to record accepted and usable donations,
33 transportation, and storage expenses eligible for the credit;

34 2. publish annual reports to the governor and the legislature includ-
35 ing:

36 (a) the total number of taxpayers claiming the credit;

37 (b) total food rescue tax credits claimed and amount refunded;

38 (c) pounds of food diverted from waste;

39 (d) estimated number of meals provided; and

40 (e) environmental and economic benefits achieved; and

41 3. develop an outreach and guidance program to inform eligible busi-
42 nesses and organizations of the availability of the food rescue tax
43 credit.

44 § 6. This act shall take effect on the first of January next succeed-
45 ing the date upon which it shall have become a law and shall apply to
46 taxable years beginning on or after such date.