# 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:**

Section 1. Short title. This act shall be known and may be cited as the "New York state food rescue tax credit act".

§ 2. Legislative findings and intent. The legislature finds and declares that:

1. New York generates over four million tons of food waste each year, a significant portion of which is edible and suitable for donation.

2. Current tax law favors disposal over donation, as deductions for waste disposal are often more financially advantageous than charitable incentives for food donation.

3. Food insecurity affects more than 11 percent of New York households, a rate that has grown in recent years and is expected to rise further due to federal reductions in SNAP benefits and potential disruptions in federal nutrition programs.

4. It is therefore the intent of the legislature to establish a refundable and transferable state tax credit to encourage businesses of all sizes to donate surplus food and to offset the costs of storage, transportation, and distribution.

5. This credit will strengthen New York's food assistance network, reduce landfill waste and methane emissions, and ensure that nutritious food reaches families in need instead of being discarded.

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

**63. Food rescue tax credit. (a) Definitions. For the purposes of this subdivision, the following terms shall have the following meanings:**

**(i) "Eligible nonprofit food assistance organization" means a nonprofit entity recognized under section 501(c)(3) of the United States 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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engages primarily in food rescue, recovery, or distribution to individuals or families in need.

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

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

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

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

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

(c) Refundability and transferability. If the amount of credit allowable under this subdivision exceeds the eligible taxpayer's tax liability for the taxable year, the excess shall be refundable. Alternatively, an eligible taxpayer may transfer or assign the unused portion of such credit to another eligible taxpayer, subject to regulations promulgated by the commissioner.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. establish a standardized electronic reporting platform for businesses and eligible nonprofits to record accepted and usable donations, transportation, and storage expenses eligible for the credit;

2. publish annual reports to the governor and the legislature including:

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

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

(c) pounds of food diverted from waste;

(d) estimated number of meals provided; and

(e) environmental and economic benefits achieved; and

3. develop an outreach and guidance program to inform eligible businesses and organizations of the availability of the food rescue tax credit.

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