

## Donate Your Excess Food and Save the Receipt

Can you get a federal tax deduction for your food donations? YES!!

Can you get a NYS tax credit for your food donations? YES!!

### A Brief History on the federal tax deduction:

Traditionally, farmers had not been able to claim a deduction for food donated. The Katrina Emergency Tax Relief Act (KETRA) (H.R. 3768) passed by Congress on September 22, 2005 changed that, granting a deduction which encouraged farms to donate excess food in times of crisis. Since then, KETRA, which expired after two years, has been haphazardly extended, with different names multiple times, for the past ten years. It did increase the amount of excess product donated, but not by much.

Where KETRA failed, PATH (Protecting Americans from Tax Hikes Act) has succeeded! Since the latest Tax Cuts and Jobs Act did not change the situation, here's the nitty gritty on PATH:

- Allows for businesses that use cash balance accounting rather than accrual—farm sole proprietorships, for example— to benefit from the tax deduction. Historically, only accrual-accounting businesses qualified for the deduction. Now, those using cash based accounting can calculate the basis value of the donated food at 25 percent of its fair market value.
- Defines a qualified donation as entitled to a deduction if it is inventory-type property given to a §501(c) (3) charitable organization that will use it for the care of the ill, the needy, or infants. This includes wholesome food that is properly saved, donated to an approved agency and properly receipted.
- Calculates this incremental tax deduction from the donated food's fair market value and basis food and labor cost. With this expansion, smaller businesses will now be able to take advantage of the full deductions. Roughly, the deduction can be calculated as the smaller of
  - twice the basis of the donated food **OR**
  - the basis of the donated food plus one-half of the food's ordinary income, if it were sold at fair market value.
- Applies retroactively to 2015 and increases the annual cap on food deduction donations. Originally no more than 10 percent of a business' total taxable income would have been allowed, this limit has been increased to 15 percent.
- Also allows for deductions to be carried over, up to five years! If the cap of 15% has been reached in the first year, but up to 20% of the businesses taxable income had been donated, the remaining 5% could be used in the next year. This would spill the benefit of large donations from one year into the next, providing a benefit for seasons when there might not be as much to donate.

### **New York State Tax Credit for Farmers Who Donate Harvest**

Starting on January 1, 2018, farm businesses in New York will be eligible to receive up to a \$5,000 tax credit annually for 25% of their donation measured at fair market value.

- **Qualified donations** can be made by **NYS farm businesses** to **NYS eligible recipients**.
- **Qualified donations** are defined by the federal Good Samaritan Act as "apparently wholesome food," which means food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.
- In order to be an eligible **farm business**, your federal gross income from farming for the taxable year must be two-thirds of excess federal gross.

- **Eligible recipients** must have 501(c)(3) nonprofit status. This includes food banks, food pantries, soup kitchens and other emergency food sites.

This tax credit will help compensate farm businesses for some of the costs associated with donating fresh, healthy food.

### Why donate?

- Studies show that unhealthy, heavily processed food is more affordable and easier to access than food that is fresh, healthy and locally grown.
- 2.67 million, or 13.5%, of New Yorkers are food insecure and hungry.
- New York State's meal gap is 472 million, which means that New York State residents who experience food insecurity fall short of a nutritious diet by 472 million meals in a single year. (Feeding America, 2016).
- Nutrition assistance helps close this meal gap each month, but is often not enough. Economic factors are forcing hungry New Yorkers to rely more heavily on supplemental sources of food. Access to healthy, wholesome foods remain a challenge for these families, which makes a donation from local farms even more important.

### How does it work?

Donating product can happen in many ways. Farmers can:

- Donate directly to a food bank, which then delivers product to their network of pantries and soup kitchens. A food bank near you is one of the best resources to help you coordinate the donation of large amounts of surplus food.
- Donate directly to a local food pantry or soup kitchen. New York State Association for Reduction, Reuse and Recycling, Inc. has a food locator page listing the emergency meal sites in each region: <https://www.nysar3.org/page/food-locators-130.html>
- Work with gleaners to harvest leftover crops directly from the fields. **Gleaning** is the collection of fresh foods from farms, gardens and other sources. The Gleaning Program at Orange County Cornell Cooperative Extension accepts donated produce and protein for distribution to soup kitchens, food pantries, and food banks. No donation is too small, or too big. For more information on Gleaning programs in your area, contact Stiles at SRN28@cornell.edu or (845) 800-2056.
- Donate to your local school or community garden. Master Gardeners and the Gleaning program are available to collect and distribute your donated transplants!

### What else besides produce can be donated?

- Milk is one of the most requested items by food bank clients, yet there is a dire shortage of milk donated. If you are a dairy farmer or processor, call your local food bank today to learn about the opportunity to donate.
- Venison is also in high demand in the emergency food system. Farmers can make a donation by delivering a deer to a participating processor. Visit <http://www.venisondonation.com/> for more information.

When reaching out to a nonprofit to donate, it will be helpful to inquire about the following:

- A receipt! Farm businesses will need to request a receipt from the recipient in order to earn a tax credit at the end of the year.

- Delivery logistics
- Packing requirements
- Specific foods needed
- Ability to coordinate a gleaning (if applicable)

## **Other Opportunities**

### **FeedHV**

FeedHV is a regional food rescue and gleaning network dedicated to meeting the needs of neighbors while mitigating the impacts of food waste. Through their web-based and mobile application powered by ChowMatch, FeedHV links food donors of prepared but unserved food and fresh produce (including farms, restaurants, catering services, grocery stores, hospitals, universities and more) to nonprofit organizations with food assistance programs (such as food pantries, soup kitchens and shelters) through the efforts of a network of volunteers who transport, glean and process donated food.

<http://www.feedhv.org/>

Contact: Carrie Jones Ross

[info@FeedHV.org](mailto:info@FeedHV.org)

518-432-5360 ext. 402

### **Benefits of working with the Gleaning program:**

- We can take or arrange for pickup of donations of all sizes.
- We make regular pickups all over Orange County with our 18' refrigerated box truck, the GleanMobile.
- If the produce is still in the field, we can come with our volunteer harvesters.
- It's easy to donate by making just one phone call!

Thank you to all the producers who continue to incorporate this program into their routine. Welcome to new farmers! If you haven't participated yet, now is a great time to start. Don't drive the truck to the cull pile loaded with fresh, edible produce, call the GleanMobile instead.

**For more information, or to donate to the Orange County Cornell Cooperative Extension Gleaning Program, contact Stiles at [SRN28@cornell.edu](mailto:SRN28@cornell.edu) or (845) 800-2056.**

### Small Print

This is not to be construed as legal/ financial advice. Information in this article was gathered from <https://tax.ny.gov/bus/farm-donations-credit.htm> and reprinted with permission from Agriculture and Markets, as well as gathered from Feeding America and Food Donation Connection. Please have your accountant review the PATH Act of 2015 for more information. To read more on this topic, including links to tax law and in depth explanations of certain terms, please visit <http://www.foodtodonate.com/Fdcmain/TaxBenefits.aspx>.