

DEPARTMENT OF TAXATION

2023 Fiscal Impact Statement

1. **Patron** Elizabeth B. Bennett-Parker

3. **Committee** Passed House and Senate

4. **Title** Income Tax; Food Crop Donation Tax Credit

2. **Bill Number** HB 2445

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would extend the sunset date for the Food Crop Donation Tax Credit to taxable years beginning on or after January 1, 2028. In addition, this bill would increase the amount of the tax credit to 50 percent of the fair market value of qualifying donations, and would increase the maximum annual amount of tax credits that a taxpayer could earn.

This bill would also expand the credit to include wholesome food donations. "Wholesome food" would be defined as food that meets all quality and labeling standards imposed by federal, state, and local laws or regulations, including food that may not be readily marketable due to appearance, age, freshness, grade, surplus, or other condition.

This bill would be effective for taxable years beginning on or after January 1, 2023, but before January 1, 2028.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Preliminary (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") considers implementation of this bill as routine and does not require additional funding.

Revenue Impact

This bill would have a negative revenue impact to the General Fund of no more than \$100,000 annually beginning in Fiscal Year 2024 as a result of the increase in the amount of the tax credit from 30 percent to 50 percent of the fair market value the donation and the increase from \$5,000 to \$10,000 in the maximum total amount of credits per taxpayer during a single year. The remaining provisions of the bill would have no General Fund revenue

impact because extension of the tax credit is assumed in the official General Fund revenue forecast.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No

11. Other comments:

Food Crop Donation Tax Credit

For taxable years beginning on or after January 1, 2016, but before January 1, 2022, any person engaged in the business of farming that donates food crops grown by the person in the Commonwealth to a nonprofit food bank is allowed a credit against his or her individual or corporate income tax liability for the taxable year of the donation. The credit is in an amount equal to 30 percent of the fair market value of such food crops donated by the person in the taxable year, not to exceed an aggregate credit of \$5,000 for all such donations made by the person during such year. "Food crops" is defined as grains, fruits, nuts, or vegetables.

The Food Crop Donation Tax Credit expired on January 1, 2022. However, Item 3-5.26 of the 2022 Appropriation Act extended the credit expiration date by one year, until January 1, 2023.

Proposed Legislation

This bill would extend the sunset date for the Food Crop Donation Tax Credit to taxable years beginning on or after January 1, 2028. In addition, this bill would increase the amount of the tax credit to 50 percent of the fair market value of qualifying donations, and would increase the maximum annual amount of tax credits that a taxpayer could earn.

This bill would also expand the credit to include wholesome food donations. "Wholesome food" would be defined as food that meets all quality and labeling standards imposed by federal, state, and local laws or regulations, including food that may not be readily marketable due to appearance, age, freshness, grade, surplus, or other condition.

Under current law, the amount of the credit is 30 percent of the fair market value of the amount of donated food crops, not to exceed an aggregate credit of \$5,000 for all such donations made during such year. This bill would increase that tax credit to equal 50 percent of the fair market value of the amount of donated food crops or wholesome food, not to exceed \$10,000 for all such donations during such year.

This bill would be effective for taxable years beginning on or after January 1, 2023, but before January 1, 2028.

Similar Legislation

Senate Bill 1525 is identical to this bill.

cc : Secretary of Finance

Date: 3/8/2023 SK
HB2445FER161