



# BOSTON AREA GLEANERS

Summer 2019 Policy Brief: Federal Enhanced Tax Deductions

## WHAT IS THE PROBLEM?

*40 million Americans are food insecure, including 12 million kids. .*

- Food insecurity disproportionately affects urban populations, people of color, and children.
- The cost of food insecurity, including increased healthcare expenses and loss of productivity during work hours, totals to \$2.4 billion a year.

*An estimated 40% of food is wasted in the United States.*

- Food waste occurs at production, distribution and consumption stages.
- Wasted foods go to landfills often despite being healthy and edible.

## WHO IS AFFECTED?

*Food-insecure households often rely on SNAP benefits or emergency donation supplies.*

- SNAP leaves out a significant portion of the working poor, documented and undocumented immigrants, and other food-insecure people.
- Emergency hunger relief is a much more urgent and less reliable source, making it difficult to build longer-term food security.

*Businesses are often unaware of the benefits of regular donation.*

- Food donation can significantly cut down on the costs of waste removal.
- Donating food can be a positive addition to a business's public image.

## WHAT ARE ENHANCED TAX DEDUCTIONS?

*Tax deductions are not the same as tax credits.*

- Tax credits reduce the amount of taxes owed, while tax deductions reduce the amount of income that can be taxed.

*Enhanced tax deductions are higher than general tax deductions.*

- General deductions claimed are calculated from basis value—which is much less than fair market value.
- Federal enhanced tax deductions can be more than twice as much as general tax deductions.
- Federal enhanced tax deductions can be claimed for up to 15% of taxable income.
- If this amount is exceeded, the excess can be carried over to the next year for up to five years.

*For an enhanced deduction to be claimed, the donated items must meet certain criteria.*

- The recipient must be a determined 501(c)(3) organization.
- The food must be used charitably.
- The food must be distributed to needy, ill, or infant individuals.
- Money cannot be exchanged between recipient organizations or giving business, except for fees relating to storage.
- The giving business must receive a written statement from the recipient organization that includes an itemized list of what was donated.
- Donated food must comply with FDA and Cosmetics Act standards for 180 days after donation.

## DONATIONS & DEDUCTIONS

- Federal Enhanced Tax Deductions began as a response to an emergency.
  - They were originally established through the Katrina Emergency Tax Relief Act, encouraging businesses to donate to displaced families after Hurricane Katrina.
  - After being renewed for a decade, Federal Enhanced Tax Deductions were permanently extended in 2015.
- When tax deductions for donations are less accessible, people donate less.
  - In 2018, charitable donations given by individual households dropped by 1.7%.
  - This decrease was the sharpest since the Great Recession in 2009 and was attributed to convoluted itemization requirements passed under the 2017 Tax Law and Jobs Act.



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## HOW ARE THEY CALCULATED?

*Federal enhanced tax deductions take the expenses of production and distribution into account by keeping different values in mind.*

- Basis value is the fixed price or worth of an asset (in this case, food and household items).
- Fair market value is the accurate price or worth of an asset having taken production and distribution costs, as well as the producer's time and energy, into account.

*Federal enhanced tax deductions are calculated by selecting the lesser of two values.*

- Basis Value x 2
- Basis Value + ( Expected Profit Margin / 2 )
  - Expected Profit Margin = Fair Market Value – Basis Value

## WHO QUALIFIES?

*All types of businesses qualify for federal enhanced tax donations, as long as federal criteria are met.*

- This includes S corporations, C corporations, and LLCs.
- Under the Bill Emerson Food Donation Act, any United States business that chooses to donate food and household products in good faith is protected from liabilities regarding illness or injury, except in cases of gross negligence or intentional misconduct.

## ARE THERE FUTURE GOALS?

*Food data analysis organization ReFED has several recommendations to improve the policy.*

- Expand the policy to better include low-margin businesses, such as farms, which make little more than the basis value of its products.
- Add extra tax deductions or credits to cover the costs of food transport.
- Repeal rules against exchanging money and allow deductions to be claimed even if recipient organizations pay fees or prices for food.
- Require compliance only with FDA and CA guidelines, reducing waste and increasing what is eligible for donation.

## EXAMPLE CALCULATION

- A grocery store wants to donate bushels of tomatoes with a basis value of \$50, and a fair market value of \$120, The expected profit margin under these values would be ( \$120 - \$50 ) or \$70. The grocery store would be eligible to deduct the smaller value between:
  - $\$50 \times 2 = \$100$
  - $\$50 + ( \$70 / 2 ) = \$85$
- Thus, the grocery store could deduct \$85 worth of federal enhanced tax deductions, which is \$35 more than if they were to take a general deduction of \$50.



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