



Federal Tax Incentives for Produce Donations

Expanded Tax Law as of 2016

- Enhanced tax deduction available for donations of fit and wholesome food inventory to qualified 501(c)3 nonprofit organizations serving the poor and needy (Internal Revenue Code 170e3).
- Qualified business taxpayers can deduct cost to produce the food and half the difference between the cost and full fair market value of food donated.
- Deductions apply to C corporations AND non c corporations as of 2016 with new procedures for growers that are cash basis.
- By expanding applicability of the tax benefits to all farmers and producers and by making it permanent it allows farmers to incorporate donation as a regular part of their crop planning, either grown to donate or as an outlet for unmarketable product.
- Provides a protocol not previously available which establishes a Fair Market Value (FMV) of product donated from the farm or packing sheds by utilizing the selling price of goods moved to market.

Special Consideration for Produce Growers

Farmers that use the cash basis method of accounting must use a different way to calculate the enhanced tax deduction.

- Cash balance = recognizes income when cash is received and expenses when cash is paid;
- Farmers prefer cash balance because it does not require the cost of an accountant like the accrual method and is more flexible for tax planning.
- Accrual method = recognizes income when it is earned (accounts receivable) and expenses when they are incurred (accounts payable)
- Because farmers using cash basis are not tracking cost for specific items closely enough, they must use 25% of the Fair Market Value to calculate their cost and then calculate the enhanced tax deduction.

Liability Protection

The Bill Emerson Good Samaritan Food Donation Act was created to encourage the donation of food and grocery products to 501(c)3 certified nonprofit organizations. Under this Act, as long as the donor has not acted with negligence or intentional misconduct, the company is not liable for damage incurred as the result of illness.



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Sample Accrual Accounting Calculation

Your company may take the sum of one-half of the unrealized appreciation (market value minus cost = appreciation) plus the taxpayer's cost, but not in excess of twice the cost of the contributed property.

Example of Zero Cost Donation:

| | |
|------------------------------------------------------------|----------------------------------|
| Market Value | \$10.00 |
| Cost to Produce (Estimating a KNOWN cost) | \$ 3.50 |
| Gross Profit equals | \$ 6.50 |
| One-half of \$6.50 equals | \$3.25 |
| The maximum deduction can never exceed 2x cost (\$3.50x2). | |
| Therefore, gross profit is limited to | \$ 7.00 |
| Total charitable deductions: | \$ 6.75 (doesn't exceed 2x Cost) |

Sample Cash Basis Accounting Calculation

Sample Enhanced Benefit Calculation:

The sum of one-half of the unrealized appreciation (fair market value minus cost of goods sold = appreciation) plus the taxpayer's cost, but not in excess of twice the cost of the contributed property. If cost is unknown, taxpayer can use 25% of FMV to calculate it.

Example:

| | |
|---------------------------------|---------|
| Selling Price (FMV) | \$10.00 |
| Cost of Goods Sold (25% of FMV) | \$ 2.50 |
| Gross Profit | \$ 7.50 |

Previous tax benefit: None

New tax benefit for all cash basis donors:

- $\$3.75 + \$2.50 = \$6.25$ (1/2 the difference between FMV and COGS + COGS)

NOTE: The maximum deduction can never exceed 2 x COGS. So the \$6.25 donation is adjusted down to \$5.00 (2x COGS).