
SENATE COMMITTEE ON REVENUE AND TAXATION

Senator Jerry McNerney, Chair
2025 - 2026 Regular

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Fiscal: Yes

INCOME TAXATION: CREDITS: VOLUNTARY CONTRIBUTIONS: FOOD BANK DONATIONS

Extends the January 1, 2027, sunset date on the New Donated Fresh Fruit or Vegetables Credit to January 1, 2032; extends the January 1, 2026, repeal date for the Emergency Food for Families Voluntary Tax Contribution Fund to January 1, 2037.

Background

Tax expenditures. California law allows various income tax credits, deductions, exemptions, and exclusions. When a tax law is determined to have a cost in the form of foregone revenues, such as a tax exemption, state law refers to them as “tax expenditures.” The Legislature enacts such tax incentives to compensate taxpayers for incurring certain expenses, such as child adoption, or to influence certain behaviors, such as participating in charitable giving. The Legislature uses tax incentives to encourage taxpayers to do something they would otherwise not do “but for” the tax incentive. The Department of Finance must publish a list of tax expenditures annually, currently totaling around \$91.5 billion.

Credits. Tax credits reduce the amount of tax owed by a taxpayer on a dollar-for-dollar basis. Credit amounts that exceed the taxpayer’s current tax year liability can either be refunded to the taxpayer or carried forward to reduce tax in future years. However, except for the Earned Income Tax Credit, the Young Child Tax Credit, the Foster Youth Tax Credit, and the Motion Picture and Television Production Credit, all credits against California Personal Income and Corporation Tax are nonrefundable.

Charitable contributions. Under current federal law, a deduction is generally permitted for charitable contributions, subject to limitations dependent upon the type of taxpayer, the property contributed, and the donor organization. The amount of any deduction generally equals the fair market value of the contributed property on the date of the contribution.

California’s personal income tax law (PITL) generally conforms to the federal rules relating to charitable contributions as of the specified date of January 1, 2025, but specifically does not conform to the enhanced deduction for a contribution of food inventory enacted by the Protecting Americans from Tax Hikes Act of 2015. The deduction under the PITL for charitable contributions of inventory is limited to the taxpayer’s basis in the inventory, generally its cost.

Additionally, the state’s Corporation Tax Law (CTL) does not adopt the general federal rules that allow enhanced deductions for corporate contributions of inventory, nor does it adopt the enhanced deduction for a contribution of food inventory. The deduction under the CTL for

contributions of inventory is limited to the taxpayer's basis in the inventory, generally its cost, and may not exceed 10% of the corporation's net income. Any excess may be carried forward for up to five years.

Donated Fresh Fruits or Vegetables Credit. In 2011, the Legislature passed AB 152 (Fuentes), which created the Donated Fresh Fruits or Vegetables Tax Credit. The credit was equal to 10 percent of the cost of fresh fruits or vegetables donated by a qualified taxpayer to a California food bank, as defined in the state's Food and Agriculture Code. This credit was available for tax years beginning January 1, 2012, and before January 1, 2017.

AB 152 defined the cost of donated produce as the cost of the produce that would be included in inventory costs, which generally includes both the direct and allocated indirect costs required to produce the fresh produce. To be eligible for the credit, the qualified taxpayer must be the person responsible for planting, managing, and harvesting the crops on the land. To claim the credit, the food bank must provide a certificate to the qualified taxpayer that includes the following:

- A statement signed and dated by a person authorized by the food bank, which states the donation was made under the Food and Agricultural Code as specified;
- The type and quantity of fresh fruits or fresh vegetables donated; and
- The name(s) of the taxpayer(s).

The credit also requires taxpayers to provide the estimated value of the donated fresh fruits or vegetables to food banks, as well as information about the origin of the donated fruits or vegetables. The credit requires the taxpayer to provide a copy of the certificate to the Franchise Tax Board (FTB) upon request. If a taxpayer claims the credit, they cannot take a deduction for costs used to calculate the credit. Any remaining unused credit may be carried forward into the following year and, if necessary, for the six succeeding years, until the credit is exhausted. AB 152 was repealed by its own provisions on December 1, 2017.

In response to the credit's expiration, the Legislature enacted the New Donated Fresh Fruit or Vegetables Credit (SB 837, Committee on Budget & Fiscal Review, 2016). SB 837 established a similar credit to AB 152 under the Personal Income and Corporation Tax Law but increased the previous credit's amount from 10% of the cost of fresh fruits or vegetables donated by the taxpayer to 15%. Further, SB 837 modified the method for calculating the cost of donated produce to the weighted average of the wholesale price. SB 837 authorized the credit for taxable years beginning on or after January 1, 2017, and before January 1, 2022.

In 2019, the Legislature enacted AB 614 (Eggman), which modified the credit by expanding the definition of qualified donation items to include the following raw agricultural products, processed foods, and the following food items:

Fruits; nuts; vegetables; meat food product; poultry; eggs; fish; rice; beans; fruits, nuts, and vegetables in canned, frozen, dried, dehydrated, and 100% juice forms; cheese; milk; yogurt; butter; dehydrated milk; infant formula; vegetable oil; olive oil; soup; pasta sauce; salsa; bread; pasta; canned meats; and canned seafood.

AB 614 also clarified that the credit is for donations made to food banks by striking "nonprofit organization" and substituting "food bank" in its place and expanded the definition of qualified

taxpayer to also means the person responsible for growing or raising a qualified donation item, or harvesting, packing, or processing a qualified donation item, provided that person is not a retailer. In 2021, AB 150 (Committee on Budget) extended the credit from January 1, 2022, to January 1, 2027.

The New Donated Fresh Fruit or Vegetables Credit is nonrefundable and must be claimed on a timely-filed original return. Taxpayers may carry over any excess credit for up to seven years, until exhausted.

Donated Fresh Fruit or Vegetables Credit Report. Pursuant to Section 41 of AB 150, FTB has issued annual reports on the Donated Fresh Fruits or Vegetables credit.¹ The 2022 through 2025 reports reflect the following:²

Tax Year	Total Credits Allowed	Total Donation Value
2017	\$ 3,196,008	\$ 8,687,551
2018	\$ 1,994,865	\$ 6,011,072
2019	\$ 1,510,924	\$ 10,251,592
2020	\$ 2,523,890	\$ 10,653,948
2021	\$ 1,638,723	\$ 11,768,710
2022	\$ 1,829,118	\$ 10,067,718
2023	\$ 1,706,378	\$ 10,663,088
2024	\$ 888,627	\$ 10,750,124
Total	\$ 15,288,533	\$ 78,853,803

The New Donated Fresh Fruit or Vegetables Credit will sunset January 1, 2027, unless legislatively reauthorized.

Voluntary Tax Contribution Funds. California allows taxpayers to donate their tax refund to one or several voluntary contribution funds (VCFs), commonly called “check-offs,” on their PIT return, and they can claim a deduction for the year the contribution is made. Their contribution to a VCF is only made if their tax payments and credits exceed the taxes they owe to the state. There are currently 18 VCFs on the PIT form, whose contributions are allocated to various organizations, including nonprofits that work on disease, resource conservation, and more.

The Legislature adds each VCF individually to the PIT return forms through legislation. With a few exceptions, VCFs remain on the return until FTB removes the VCF due to a sunset provision or the VCF fails to meet the statutory minimum contribution amount. By September 1 of each calendar year, the FTB must determine whether estimated contributions to specified funds will be less than the minimum contribution amount required for that calendar year. If FTB estimates a fund will fail to meet the minimum contribution amount for a calendar year, the fund is repealed on January 1 of the following calendar year. In general, the annual minimum contribution amount is \$250,000, beginning the fund’s second year, with some adjusted for inflation. The VCFs below do not have a minimum contribution requirement:

¹ <https://www.ftb.ca.gov/about-ftb/data-reports-plans/>.

² Not all 2024 data has been collected not all timely 2024 tax year returns have been processed as of this writing. Totals do not include donations on returns where sufficient detail was not provided by taxpayers. Report reflects information as filed by the taxpayer. Total Credits Allowed includes carryover amounts from prior years.

- California Firefighters' Memorial Foundation Fund;
- California Peace Officer Memorial Foundation Fund;
- California Senior Citizen Advocacy Voluntary Tax Contribution Fund; and
- California Seniors Special Fund.

In tax year 2025, there are 18 active VCFs. The contributions to these VCF during the year 2025 were as follows³:

Alzheimer's Disease and Related Dementia	\$401,309
California ALS Research Network	\$75,418
California Breast Cancer Research	\$353,549
California Cancer Research	\$353,549
California Firefighters' Memorial	\$210,997
California Peace Officer Memorial Foundation	\$88,274
California Sea Otter	\$228,948
California Senior Citizen Advocacy	\$104,465
California Seniors Special Fund	108,752
Emergency Food for Families**	\$455,440
Keep Arts in Schools	\$221,043
Mental Health Crisis Prevention	\$267,818
Native California Wildlife Rehabilitation	\$281,545
Prevention of Animal Homelessness and Cruelty	\$229,269
Protect Our Coast and Oceans	\$247,745
Rare and Endangered Species Preservation	\$319,151
School Supplies for Homeless Children	\$479,871
State Parks Protection Fund/Parks Pass Purchase*	\$510,171
2025 TOTAL	\$4,937,314
2025 Average	\$274,295
* Most Popular 2025	
** Historically Most Popular VCF by Annual Average Contributions	

After a taxpayer contributes to a VCF, the FTB deposits all contributions, minus its administration costs, into a fund named for the VCF. State agencies administer most VCF funds to fund the purpose outlined in the legislation that placed the VCF on the PIT form. For other VCFs, the State Controller's office allocates taxpayer contributions directly to the private organization without going through an administrative agency. For example, the State Controller's office directly passes taxpayer contributions to the California Fire Foundation.

Senate Bill 1476. In December 2015, the Senate Committee on Governance and Finance held an oversight hearing on VCFs. The Committee identified best practices and reforms needed to

³ <https://www.ftb.ca.gov/file/personal/voluntary-contribution-funds/annual-contribution/index.html>.

ensure the state allocates taxpayer contributions toward charitable purposes transparently and in a timely manner. In 2016, the Legislature enacted SB 1476 (Committee on Governance and Finance), which codified those best practices and established general provisions for all VCFs enacted or extended after January 2, 2017. Specifically, the bill required:

- The words “voluntary tax contribution” must be included in the fund’s name;
- The administering agency’s website shall report specific data related to the usage of the amounts received via voluntary contribution;
- A voluntary contribution fund must receive a minimum contribution of \$250,000 for the second calendar year after it first appears on the tax return and each year after that to remain on the tax return; and
- A voluntary tax contribution would remain in effect only until January 1 of the seventh calendar year following the first appearance of the contribution on the tax return and be repealed as of December 1 of that year.

Emergency Food for Families VCF. The predecessor to the Emergency Food for Families Fund, the Emergency Food Assistance Program (EFAP) check-off, first appeared on the 1998 tax return in 1999 and was authorized to remain on the state income tax form from January 1, 1999, through January 1, 2004 (AB 2366, Cedillo, 1998). The EFAP check-off had a \$250,000 minimum annual contribution requirement (indexed annually for inflation). AB 2366 provides that contributions to the EFAP check-off be allocated to the State Department of Social Services (DSS) for direct services provided by EFAP and may not be used for DSS’s administrative costs.

The EFAP check-off was extended four additional times (SB 43, Cedillo, 2003, until January 1, 2009; SB 1101, Cedillo, 2008, until January 1, 2014; SB 116, Liu, 2013, until January 1, 2019; and SB 61, Hertzberg, 2017, until January 1, 2026). SB 61 also renamed the EFAP check-off to Emergency Food for Families VCF and reset the minimum contribution amount for the fund to \$250,000, with no annual inflation adjustment requirement. The Emergency Food for Families VCF has historically been the VCF with the highest total annual contributions, receiving \$455,440 in 2025 and an all-time high of \$945,638 in 2021.

EFAP. The EFAP is a federal program that helps supplement the diets of low-income Americans, including the elderly, by providing emergency food assistance at no cost. The program is for low-income people who meet established federal income guidelines and whose households reside in the service area. The U.S. Department of Agriculture (USDA) provides 100% American-grown USDA Foods and administrative funds to states to support EFAP operations. The Food, Nutrition, and Service agency of the USDA administers EFAP at the federal level. All 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam administer the program at the state level.

The amount made federally available for EFAP food purchases for fiscal year (FY) 2026 is \$465.2 million. Additionally, \$94.3 million is available for State agencies to convert to administrative funds.”⁴ California will receive approximately \$65,247,313.09 from EFAP for food purchases and administering food bank programs for FY 2026.

The Emergency Food for Families VCF won’t appear on the tax return in the 2026 taxable year unless legislatively reauthorized.

⁴ <https://fns-prod.azureedge.us/sites/default/files/resource-files/fy26-tefap-food-and-administrative-funding.pdf>

The author wants to extend the current sunset date for the tax credit for donated fruits or vegetables under the PITL and CTL to encourage taxpayers to donate other edible items to food banks and extend the repeal date of the Emergency Food for Families Voluntary Tax Contribution Fund so it may remain on the tax return for taxpayers to donate to.

Proposed Law

Senate Bill 881 extends the January 1, 2027, sunset date on the New Donated Fresh Fruit or Vegetables Credit to January 1, 2032, makes legislative findings and declarations supporting the credit's purposes, defines several terms, and complies with Section 41 of the Revenue and Taxation Code. SB 881 also extends the January 1, 2026, repeal date for the Emergency Food for Families Voluntary Tax Contribution Fund to January 1, 2037.

State Revenue Impact

FTB estimates SB 881 will result in a revenue loss of \$400,000 in Fiscal Year (FY) 2026-27, \$900,000 in FY 2027-28, and \$1,000,000 in FY 2028-29.

Comments

1. Purpose of the bill. According to the author, "SB 881 enables farmers, growers, and food producers to provide fresh fruits, vegetables, nuts, and more to food-insecure families and receive tax credits for donating surplus food to food banks. California farmers and growers are among the most productive in the world, and yet far too many Californians go hungry each year. This bill reauthorizes California's Farmer to Food Bank Tax Credit, extending a successful program that provides farmers, growers, and food producers with a state tax credit when they donate excess, safe-to-eat food to California food banks. Specifically, SB 881 bill extends the existing 15 percent tax credit for qualified food donations through 2032. SB 881 also extends the Emergency Food for Families Voluntary Tax Contribution Fund, ensuring Californians can continue to voluntarily contribute to food banks through their tax returns. Together, these provisions strengthen California's food safety net at a time when many Californians are struggling to put food on the table."

2. "Windfall" or "but for" tax benefit? Tax expenditures produce two different outcomes. The first outcome is a "windfall," in which the tax expenditure rewards behavior that would have occurred even without the tax benefit. The second outcome is a "but for tax benefit," where a particular activity would not have occurred without the incentive created by the tax expenditure. The absence of this credit may dissuade former donors from making continued donations. Donations are not cost-free. Farmers incur costs for harvesting, packing, and transporting donated products. On balance, this credit may be a "but for" incentive for taxpayers where financial barriers would limit their participation in food bank programs, such as smaller and mid-sized farms. However, it may be a windfall for those who would continue to donate in the absence of this credit.

3. Revenue loss. Existing tax law provides various credits, deductions, exclusions, and exemptions for certain taxpayers. By extending a credit against personal and corporate income tax, SB 881 will result in the State General Fund receiving less revenue. As a result, the state will have to reduce spending or increase taxes to offset the loss.

4. Equity. SB 881 promotes social equity by extending incentives for donations of fresh and

nutritious food to food banks, helping address food insecurity in low-income and disadvantaged communities. By extending the tax credit for donations indefinitely, the bill encourages long-term participation from agricultural producers and food processors, thereby improving the consistency and volume of charitable food supplies. Additionally, extending the Emergency Foods for Families VCF ensures that DSS receives vital funding to support EFAP, which provides food for distribution at local food banks.

5. Many worthy causes. Today, the PIT return contains 18 VCFs. Even though the Legislature has added many VCFs over the years, the total year-over-year contributions to each fund have remained fairly consistent. As a result, extending current or adding new ones may make it more difficult for each to meet its minimum contribution requirement.

6. Minimum contribution requirement. The \$250,000 minimum contribution requirement for VCFs, which SB 1476 made mandatory for all new or extended VCFs, was intended to ensure that only funds with significant taxpayer support remain on the tax return, thereby justifying administrative costs and competition among funds. While paper forms posed clear cost and space concerns, the minimum requirement persists even as taxpayers have shifted over time to electronic filing. Additionally, despite the increased number of VCFs added to tax forms over the years, it is a rare occasion that a VCF fails to meet the minimum contribution requirement. In these cases, the Legislature has previously removed the minimum threshold for some VCFs, such as the California Senior Citizen Advocacy VCF (SB 309, Rubio, 2019; extended by AB 559, Boerner, 2023, which removed the minimum threshold). The Committee may wish to consider whether the reduced administrative costs resulting from the shift to electronic filing diminish the intent of the minimum contribution requirement.

7. Challenges presented by increased electronic filing. A key challenge for VCFs, from the increase in taxpayers using electronic filing, is that many taxpayers may never see these voluntary contribution options. Electronic tax preparation software often prioritizes credits and deductions, and VCF checkboxes may require proactive navigation or be otherwise unavailable in the software. As a result, even taxpayers who might want to contribute to a VCF may not be aware of the option, leading to lower overall contributions and making it difficult for VCFs to meet the \$250,000 minimum. The Committee may wish to consider whether this reduced visibility issue diminishes the practical impact of the minimum contribution requirement and the fairness of removing a fund solely due to low contributions.

8. SB 1476 requirements. The Emergency Food for Families fund substantially complies with the best practices outlined in SB 1476, detailed above. For most fiscal years, DSS has made available on its website letters from the Chief of the Emergency Food Program Section to all EFAP providers regarding the disbursement of the VCF monies and their specific uses. If a letter for a given fiscal year is not readily accessible online, it can be obtained upon request. The available information indicates that DSS will continue to substantially comply with SB 1476's requirement that the administering agency's website report specific data on the use of amounts received via voluntary contribution. However, if the agencies fail to satisfy the reporting requirements specified in SB 1476, the Legislature may consider this factor when determining whether to extend this fund in the future.

9. Section 41. Section 41 of the Revenue and Taxation Code requires any bill enacting a new tax expenditure to contain, among other things, specific goals, purposes, and objectives that the tax expenditure will achieve and detailed performance indicators, along with data

collection and reporting requirements (SB 1335, Leno, 2014). To satisfy these requirements, SB 881 states that its purpose is to increase donations to food banks and its performance indicators are to be the utilization of the credit authorized, the qualified value of the qualified donation items, the county in which the qualified donation items originated, and the month the donation was made. To aid the Legislature in determining whether this act meets the goals, purposes, and objectives, SB 881 directs the FTB to submit a report to the Legislature annually by December 1 until January 1, 2032.

10. Related legislation. Substantially identical to this bill is SB 353 (Alvarado-Gil), which the Senate passed unanimously and was held on the Assembly Revenue & Taxation Committee's suspense file. Further, the committee will also hear SB 1073 (Smallwood-Cuevas), which would establish the Black Cultural District Voluntary Tax Contribution Fund. Additionally, pending referral in the Assembly is SB 575 (Laird), which would reestablish the California Sea Otter Voluntary Tax Contribution Fund for tax years 2027 through 2034.

Support and Opposition (3/20/26)

Support: California Association of Food Banks (Co-Sponsor)

Californians Against Waste (Co-Sponsor)

350 Humboldt

Alena's Lab Kitchen

American Pistachio Growers

Bayview Senior Services

Berkeley Food Network

California Avocado Commission

California Citrus Mutual

California Farm Bureau

California Food and Farming Network

California Fresh Fruit Association

California Rice Commission

California Table Grape Commission

California Tomato Growers Association

California Walnut Commission

Careit

Center for Ecoliteracy

Central California Food Bank

City of Woodland

CleanEarth4Kids.org

Climate Action California

Climate Reality Project - Silicon Valley Chapter

Community Action Partnership of San Bernardino County

Crop Swap LA

Dr. Bronner's

Elders Climate Action, SoCal Chapter

Families Advocating for Chemical & Toxics Safety

Farm Habit

Farm2People

Food for People, the Food Bank for Humboldt County

FoodCycle

FoodRecovery.org

Franciscan Workers of Junipero Serra, dba Dorothy's Place
Fullwell
G.R.A.C.E. Social and Medical Services
Global Alliance for Incinerator Alternatives
Grower-Shipper Association of Central California
HiBhaChi
Hunger Action Los Angeles, Inc.
Jacobs & Cushman San Diego Food Bank
Loaves & Fishes Family Kitchen
Los Angeles Climate Reality Project
Los Angeles Food Policy Council
Los Angeles Regional Food Bank
Lutheran Office of Public Policy - California
Mojave Desert and Mountain Recycling Authority
Natural Resources Defense Council
No Time to Waste
Office of Kat Taylor
Replate
Resource Renewal Institute
Sacramento Food Bank & Family Services
Salinas Valley Recycles
San Diego Food System Alliance
San Francisco Bay Physicians for Social Responsibility
San Francisco-Marin Food Bank
San Luis Obispo Food Bank
Santa Cruz Climate Action Network
Second Harvest Food Bank of Orange County
Second Harvest Food Bank Santa Cruz County
Second Harvest of Silicon Valley
Sierra Harvest
Sierra Orchards
Solana Center for Environmental Innovation
StopWaste
The Farmlink Project
The Resource Connection Food Bank
Western Growers Association
Yuba Sutter Food Bank

Opposition: None received.

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