
SENATE COMMITTEE ON APPROPRIATIONS

Senator Sabrina Cervantes, Chair
2025 - 2026 Regular Session

SB 881 (McNerney) - Income taxation: credits: voluntary contributions: food bank donations

Version: January 12, 2026

Urgency: No

Hearing Date: April 13, 2026

Policy Vote: REV. & TAX. 5 - 0

Mandate: No

Consultant: Robert Ingenito

Bill Summary: SB 881 would extend (1) the sunset date on the New Donated Fresh Fruit or Vegetables Credit, as specified, and (2) the repeal date for the Emergency Food for Families Voluntary Tax Contribution Fund to January 1, 2037.

Fiscal Impact: FTB estimates that this bill would result in General Fund revenue losses of \$400,000 in 2026-27, \$908,000 in 2027-28, and \$1.008 million in 2028-29. FTB's total administrative costs have yet to be identified.

Background: Tax expenditure programs (TEPs) are special tax provisions that reduce the amount of revenues the "basic" tax system would otherwise generate in order to provide (1) benefits to certain groups of taxpayers, and/or (2) incentives to encourage certain types of behavior and activities, such as charitable giving. Specifically, current law provides for, among other things, various income and corporation tax credits and deductions, as well as exemptions from the sales and use tax. The Department of Finance is required to publish a list of TEPs (currently totaling several hundred), which currently exceed \$91 billion annually.

Tax credits reduce a taxpayer's liability on a dollar-for-dollar basis. Credit amounts that exceed the taxpayer's current tax year liability can either be (1) refunded to the taxpayer, or (2) carried forward to reduce tax in future years. State tax credits are generally nonrefundable; exceptions include the Earned Income Tax Credit, the Young Child Tax Credit, the Foster Youth Tax Credit, and the Motion Picture and Television Production Credit.

A tax deduction is generally permitted for charitable contributions, subject to limitations dependent upon the type of taxpayer, the property contributed, and the organization receiving the donation. The amount of any charitable contribution deduction usually equals the fair market value of the contributed property on the date the donation was made. The State conforms to the federal rules relating to charitable contributions as of January 1, 2015. However, it does not conform to the enhanced charitable deduction, enacted with the passage of the federal tax changes in 2017.

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. That bill 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 taxpayer must be the person responsible for planting the crop, managing it,

and harvesting it from the land. To claim the Credit, the food bank must provide a certificate to the taxpayer that includes specified information.

The Credit also requires taxpayers to provide the estimated value of the donated fresh fruits or vegetables to food banks, as well as information regarding the origin of where the donated fruits or vegetables were grown. The taxpayer is required to provide a copy of the certificate to FTB upon request. A taxpayer claiming the credit cannot take a deduction for costs used to calculate the credit, and any remaining unused credit can be carried forward for the next six years, until the credit has been exhausted. AB 152 was repealed by its own provisions on December 1, 2017.

However, the Legislature enacted the New Donated Fresh Fruit or Vegetables Credit in 2016 (SB 837, Committee on Budget & Fiscal Review). SB 837 established a credit similar to AB 152, but increased the credit amount by five percentage points, to 15 percent. SB 837 authorized the credit for taxable years 2017 to 2021.

In 2019, the Legislature enacted AB 614 (Eggman), which modified the Credit by expanding the definition of qualified donation items. 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 mean 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 through taxable year 2026.

Additionally, current law allows a taxpayer to donate an amount in excess of their Personal Income Tax (PIT) liability to one or more voluntary contribution funds (VCFs) listed on the PIT return. There were 18 VCFs listed on the 2025 return, whose contributions are allocated to various organizations, including nonprofits that work on disease research and resource conservation. The Legislature adds each VCF individually to the PIT return form through legislation. Generally, a VCF remains on the PIT return until a statutory sunset date, but if FTB determines the VCF fails to meet a \$250,000 minimum contribution amount (with some adjusted for inflation), the VCF is statutorily repealed and FTB removes the VCF from the return.

After a taxpayer contributes to a VCF, FTB deposits all contributions, less its administration costs, into a fund named for the VCF. State agencies administer most VCF funds to fund the purpose outlined in the authorizing legislation. For other VCFs, SCO allocates taxpayer contributions directly to the private organization without going through an administrative agency. For example, SCO directly passes taxpayer contributions to the California Fire Foundation.

The predecessor to the Emergency Food for Families Fund, the Emergency Food Assistance Program (EFAP) tax check-off, first appeared on the 1998 tax return and was authorized to remain on the PIT return from January 1, 1999, through tax year 2003. The EFAP check-off had a \$250,000 minimum annual contribution requirement (indexed annually for inflation). Contributions to the EFAP check-off were allocated to the 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, ultimately through tax year 2025. The EFAP check-off was also renamed the Emergency Food for Families VCF,

and its minimum contribution amount was reset 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 \$579,131 in 2025 and an all-time high of \$945,638 in 2021. The Emergency Food for Families VCF will not appear on the tax return in taxable year 2027 unless legislatively reauthorized.

Proposed Law: This bill would (1) extend the January 1, 2027, sunset date on the New Donated Fresh Fruit or Vegetables Credit to January 1, 2032, and (2) extend the repeal date for the Emergency Food for Families VCF to January 1, 2037.

Related Legislation:

- SB 353 (Alvarado-Gil, 2025), similar to this bill, would have extended the credit for agricultural donations to food banks for five years. The bill was held under submission on the Suspense File of the Assembly Revenue & Taxation Committee's
- SB 1073 (Smallwood-Cuevas), would establish the Black Cultural District Voluntary Tax Contribution Fund, as specified. The bill is currently pending in the Committee.
- SB 575 (Laird), would reestablish the California Sea Otter Voluntary Tax Contribution Fund for tax years 2027 through 2034. The bill is currently pending at the Assembly Desk.
- AB 150 (Assembly Committee on Budget, Chapter 82, Statutes of 2021), among other things, modified the credit for agricultural product donations to food banks by extending the operative date by five years, and extended FTB's existing reporting requirement for this credit by five years.

Staff Comments: According to an FTB November 2024 report, taxpayers reported approximately \$12 million in donations in 2021, \$11 million in 2022, and \$8 million in 2023. Between 2021 and 2023, \$4.2 million in Donated Fresh Fruit or Vegetable Credits offset tax liability on 1,992 tax returns.

-- END --