

A Farmer's Guide to the New York State "Farm to Food Bank" Tax Credit

In April 2017, New York State enacted a tax credit of up to \$5,000 per year for food donations by farmers to food pantries or food banks. This "Farm to Food Bank" tax credit was intended to increase food donation, strengthen regional food systems, and reduce food waste. More information about the tax credit and its benefits can be found in Case Study: Addressing Food Waste and Food Insecurity Through The New York Farm to Food Bank Tax Credit.

Can my farm benefit?

Beginning with the 2018 tax year, the credit will be available to sole proprietorships, corporations, limited liability companies, and partnerships.

To claim the credit, you must be an "eligible farmer," meaning you derive most of your income from farming, as calculated under the following formula:

- First, calculate your total federal gross income.
- Second, reduce your federal gross income by up to \$30,000 of wages, salaries, pensions, social security payments, interest, and dividends. Let's call the result "B."
- Third, calculate your federal gross income from farming. Let's call this "A."
- Fourth, divide A by B. If the resulting sum is at least 2/3 or 0.666..., you are eligible for the credit.

One shortcut: if your non-farm federal gross income (total federal gross income minus federal gross income from farming) consists of \$30,000 or less of wages, salaries, pensions, social security payments, interest, and dividends, then you are eligible for the credit.

Example A: Robin owns a farm. She earns \$40,000 from the operation of the farm, \$35,000 in salary from a non-farm job, and \$10,000 in interest and dividends. Her income is \$85,000.

Let's apply the formula:

1. Robin's federal gross income is \$85,000 (\$40,000 farm income plus \$35,000 non-farm salary plus \$10,000 interest and dividends).
2. Robin reduces her \$85,000 of federal gross income by \$30,000 (taken from the \$45,000 of non-farm income), yielding "B" of \$55,000.
3. Her gross income from farming is \$40,000, so "A" is \$40,000.
4. A/B is \$40,000/\$55,000, or 0.7272... Since this is greater than 2/3, Robin is eligible for the credit.

Example B: If, instead, Robin's non-farm salary were \$50,000, "B" would equal \$70,000 (\$40,000 + \$50,000 + \$10,000 - \$30,000). Then A/B would be \$40,000/\$70,000 or about 0.5714... Since this is less than 2/3, Robin is not eligible for the credit.

What donations qualify for the tax credit?

The tax credit is available for a donation:

- of "apparently wholesome food;"^a
- grown or produced within New York State;
- to a food pantry, food bank, or other emergency food program operating within New York State that has a federal tax exemption.

To claim the credit, you must obtain a letter or other receipt from the receiving organization showing the organization's name, the date and location of the donation, and a reasonably detailed description of the donation.

How is the tax credit calculated?

The tax credit is equal to 25 percent of the fair market value of the food donated, up to \$5,000 per year.^b

a For this purpose "apparently wholesome" donations are "food that meets all quality and labeling standards imposed by Federal, State and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade size, surplus or other conditions." See the Emerson Act, 42 U.S.C. Section 1791(b)(2), applicable by cross reference from Internal Revenue Code 170(e)(3)(C)(vi).

b If the donation is made by a partnership, limited liability company, or New York subchapter S corporation, then the \$5,000 cap is applied at the entity level, so that aggregate credit to all partners, members, or shareholders does not exceed \$5,000 for the year.

Fair market value is your normal selling price—what your farm charges for food of the same type and quality. You don't have to factor in whether you had a buyer or whether the food meets normal standards for size, shape, etc., as long as the food is “apparently wholesome.” The fair market value will vary depending on whether you intended to sell on the wholesale or retail market.

What if the credit is more than I owe in New York State taxes?

If your tax credit is more than the New York State tax that you owe for the year, you can receive a tax refund equal to the excess. For example, if your tax credit for the year is \$3,000 but your New York State tax for the year is \$2,000, then you can use the credit to reduce your tax bill to zero and you can apply for a tax refund of \$1,000. Likewise, if your tax credit for the year is \$3,000 but your New York State tax for the year is \$0, you can apply for a tax refund of \$3,000.

Can I also claim a federal tax deduction?

Your food donation may also qualify for a federal tax deduction. However, the rules for the federal deduction are different than those for the New York State credit, so you should consult your tax adviser about it. The most significant difference is that a deduction reduces a taxpayer's taxable income, while a credit reduces the amount of taxes owed. As a result, the federal deduction requires you to have a certain amount of taxable income to benefit, unlike the refundable NYS tax credit which does not require any taxable income. [A Farmer's Guide to the Enhanced Federal Tax Deduction for Food Donation](#) is a brief description of the federal deduction.

This document is only a brief summary of the tax credit and does not seek to provide legal or tax advice. You should speak to your accountant or lawyer to learn more about the New York State tax credit.