

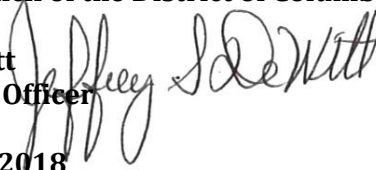
Government of the District of Columbia  
Office of the Chief Financial Officer



Jeffrey S. DeWitt  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Jeffrey S. DeWitt  
Chief Financial Officer 

**DATE:** September 26, 2018

**SUBJECT:** Fiscal Impact Statement – Save Good Food Amendment Act of 2018

**REFERENCE:** Bill 22-72, Committee Print provided to the Office of Revenue Analysis on September 21, 2018

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**Conclusion**

Funds are not sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill. The bill is subject to appropriations in an approved budget and financial plan. The tax credit will have no effect in fiscal year 2019 but will reduce general fund revenue by \$5.7 million over the four-year financial plan.

**Background**

The bill proposes to create a non-refundable tax credit for food donations, limits liability of good faith donors, and makes changes to food safety requirements.

The tax credit permits taxpayers to claim a non-refundable credit against individual<sup>1</sup>, corporate, and unincorporated business<sup>2</sup> taxes for food donations made during the tax year to a tax-exempt organization. The credit is equal to 50 percent of the fair market value of the food donation, up to a maximum \$2,500 per taxpayer annually. Married individuals or registered domestic partners filing a joint return, corporations and unincorporated businesses may claim up to \$5,000 annually. For individual taxpayers, if the credit amount exceeds a taxpayer's liability, the amount of the tax credit may be carried forward for up to five years. Corporate and business taxpayers may not carry forward the credit.

Donated food must meet all quality and labeling standards and be intended for human consumption, even though the food may not be "readily marketable." The food may be from a

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<sup>1</sup> D.C. Official Code 47-1806.

<sup>2</sup> D.C. Official Code 47-1807 and 47-1818.

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community garden, a certified District kitchen, or a licensed District retailer. Taxpayers must provide documentation supporting the tax credit claim in a form and manner prescribed by the Chief Financial Officer.

A similar food donation tax credit was in effect for a short time from October 1, 2015 through April 7, 2017<sup>3</sup>. Unlike the proposal in this bill, the previous credit was not available for retailers or kitchens, and the total credit for all taxpayers was limited to \$400,000. In tax year 2016, 637 taxpayers claimed a total of \$399,891 in credits. In tax year 2017, 435 taxpayers claimed a total of \$341,470 in credits.

The bill adds several mandates regarding date labels on food. It eliminates the Department of Health (DOH) requirement that date labels on food products be followed, if the food does not pose an increased safety risk to consumers when consumed after the date on the label. Additionally, DOH cannot limit sale or donation of food after the date on the label has passed - except for certain food products that pose an increased safety risk. The bill requires DOH to develop rules to implement these requirements. Lastly, the bill requires that DOH and Office of Waste Division create a guide for food donors and organizations that accept food donations. DOH must train health inspectors on the information in the guide.

The bill also changes liability law to protect a good faith food donor when the donation is made to a charity or non-profit or given directly to an individual for consumption<sup>4</sup>.

### **Financial Plan Impact**

Funds are not sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill. The bill is subject to appropriations in an approved budget and financial plan.

The tax credit will reduce general fund revenue by about \$1.9 million in fiscal year 2020, 2021 and 2022, for a total of \$5.7 million over the four-year financial plan. The estimated cost is higher than what was incurred under the tax year 2016-2017 credit because the definition of what can be donated is broadened to include prepared foods, which is expected to attract donations from more retailers, kitchens and restaurants. Additionally, there is no overall District limit to the new credit - the previous credit was capped at \$400,000.

The Department of Health can implement the new requirements regarding date labels within current resources. The agency intends to hire an intern part time to perform research on date labels to assist with the rulemaking.

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<sup>3</sup> The previous credit was established by D.C. Law 20-248, "D.C. Urban Farming and Food Security Act of 2014," effective from April 30, 2015. It was funded in the Fiscal Year 2016 Budget Support Act of 2015 (D.C. Law 21-36, Effective from October 22, 2015). The credit was eliminated by D.C. Law 21-0257, effective from April 7, 2017. Only donations made through April 7, 2017 were able to be applied to Tax Year 2017 tax returns.

<sup>4</sup> Amends the Good Faith Donor and Donee Act of 1981, (D.C. Law 4-39, D.C. Official Code § 48-301).

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<b>Fiscal Impact of Bill 22-72 Save Good Food Amendment Act of 2018</b>					
<b>Fiscal Year 2019 – Fiscal Year 2022</b>					
	<b>FY 2019(a)</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>Total</b>
Reduced Corporate / Unincorporated Business Tax Revenue	\$0	\$1,438,870	\$1,482,037	\$1,526,498	\$4,447,405
Reduced Individual Income Tax Revenue	\$0	\$412,000	\$424,360	\$437,091	\$1,273,451
<b>TOTAL</b>	\$0	\$1,850,870	\$1,906,397	\$1,963,588	\$5,720,855

(a) Assumes tax credit will be effective beginning Tax Year 2019, meaning that the cost of the bill won't be realized until fiscal year 2020, when tax returns are due and refunds are processed.