



## Federal Tax Incentives for Food Donations

### Current Tax Law

- 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 permanently and non c corporations (like sole proprietors, S corps & LLCs) only through the end of 2013. Product donations from non c corporation donors are not eligible for the enhanced tax deduction in 2014 until Congress retroactively renews the provision, as they have done with past expirations.

### Sample 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:

Selling Price	\$4.00
Cost	\$1.00
Gross Profit equals \$3.00	
One-half of \$3.00 equals \$1.50	
The maximum deduction can never exceed two times the cost (\$2.00). Therefore, gross profit is limited to \$1.00	
Total charitable deductions:	\$2.00

### Special Consideration for Produce Growers

Farmers that are sole proprietors do not qualify for the deduction because they:

- Use the cash balance method of accounting.
- Keep track of money in and money out, but not the specific costs of items like fertilizer, seed costs, irrigation costs, etc.
- Cannot calculate the cost (or basis) to produce the food, so cannot 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.

