

# SENATE, No. 2200

## STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

**Senator M. TERESA RUIZ**

**District 29 (Essex and Hudson)**

**Senator NILSA I. CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**Co-Sponsored by:**

**Senators Singleton, Turner and Space**

**SYNOPSIS**

Provides corporation business tax and gross income tax credits for value of certain fruit and vegetable donations made by commercial farm operators.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 2/12/2024)**

S2200 RUIZ, CRUZ-PEREZ

1 AN ACT providing credits against the corporation business tax and  
2 the gross income tax for the value of certain fruit and vegetable  
3 donations made by commercial farm operators, supplementing  
4 P.L.1945, c.162 (C.54:10A-1 et seq.) and Title 54A of the New  
5 Jersey Statutes.

6

7 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
8 *of New Jersey:*

9

10 1. a. For privilege periods beginning on or after January 1,  
11 2024 but before January 1, 2029, a commercial farm operator that  
12 makes a donation of fruits or vegetables fit for human consumption  
13 to a charitable organization located in this State shall be allowed  
14 credit against the corporation business tax imposed pursuant to  
15 section 5 of P.L.1945, c.162 (C.54:10A-5), in an amount equal to 10  
16 percent of the wholesale value of the fruits or vegetables that are  
17 donated to the charitable organization during the privilege period of  
18 donation.

19 b. In order to claim the credit allowed pursuant to this section,  
20 a commercial farm operator shall obtain a written statement from  
21 the charitable organization substantiating each donation of fruits or  
22 vegetables made during the privilege period for which the credit is  
23 allowed. At the time a donation is made, the commercial farm  
24 operator shall provide to the charitable organization the wholesale  
25 value of the donated fruits or vegetables and information  
26 identifying the location where the fruits or vegetables were grown.  
27 The charitable organization, upon receipt of the donated fruits or  
28 vegetables, shall issue to the commercial farm operator making the  
29 donation a written statement, signed and dated by an individual  
30 authorized to accept the donation on behalf of the charitable  
31 organization, that contains the variety, grade, and quantity of the  
32 donated fruits or vegetables, the name and address of the  
33 commercial farm operator making the donation, the name and  
34 address of the charitable organization, and, as provided by the  
35 commercial farm operator, the wholesale value of and the location  
36 where the donated fruits or vegetables were grown. When filing a  
37 return that includes a claim for the credit allowed pursuant to this  
38 section, the commercial farm operator shall include a copy of each  
39 written statement issued to the commercial farm operator by a  
40 charitable organization during the privilege period for which the  
41 credit is allowed.

42 c. The order of priority of the application of the credit allowed  
43 pursuant to this section and any other credits allowed by law shall  
44 be as prescribed by the director. The amount of the credit applied  
45 under this section against the corporation business tax liability of  
46 the taxpayer for a privilege period, together with any other credits  
47 allowed by law, shall not exceed 50 percent of the tax liability  
48 otherwise due and shall not reduce the tax liability to an amount

1 less than the statutory minimum provided in subsection (e) of  
2 section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the  
3 credit allowable under this section which cannot be used to reduce  
4 the taxpayer's corporation business tax liability for the privilege  
5 period due to the limitations of this section may be carried forward  
6 and applied to the earliest available use within the five privilege  
7 periods immediately following the privilege period for which the  
8 credit is allowed. The wholesale value of any donated fruits or  
9 vegetables that are included in the calculation of the credit allowed  
10 pursuant to this section shall not be allowed as an amount  
11 calculated or claimed pursuant to any other deduction or credit  
12 allowed under the corporation business tax.

13 d. As used in this section:

14 "Charitable organization" includes any organization that is  
15 incorporated under the provisions of Title 15 or Title 16 of the  
16 Revised Statutes or Title 15A of the New Jersey Statutes, any  
17 organization that is exempt from taxation under section 501(c)(3) of  
18 the Internal Revenue Code, any entity to which a charitable  
19 contribution as defined under subsection (c) of section 170 of the  
20 Internal Revenue Code is deductible under section 170, and any  
21 food bank as defined in section 2 of P.L.1982, c.178 (C.24:4A-2).

22 "Commercial farm" means "commercial farm" as that term is  
23 defined by section 3 of P.L.1983, c.31 (C.4:1C-3).

24 "Commercial farm operator" means the taxpayer primarily  
25 responsible for the on-site, day-to-day operation of a commercial  
26 farm, at which farm fruits or vegetables are planted, managed, and  
27 harvested for donation.

28 "Wholesale value" means:

29 the value calculated by using a quantity-weighted average  
30 wholesale sales price of the donated fruits or vegetables as  
31 determined based on the wholesale sales price paid for each  
32 wholesale sale of fruits or vegetables made by the commercial farm  
33 operator during the calendar month of the commercial farm  
34 operator's donation that are the same variety and grade as the  
35 donated fruits or vegetables and the respective weight, volume, or  
36 other standard unit of measure of each wholesale sale; or

37 if no wholesale sales of fruits or vegetables that are the same  
38 variety and grade as the donated fruits and vegetables are made by  
39 the commercial farm operator during the calendar month of the  
40 commercial farm operator's donation, the wholesale value shall be  
41 equal to the overall average price paid for fruits or vegetables that  
42 are the same variety and grade as the donated fruits or vegetables at  
43 the nearest terminal market located the fewest miles from the  
44 commercial farm operator's commercial farm during the calendar  
45 month of the commercial farm operator's donation as determined  
46 using the Fruit and Vegetable Market News Custom Average Tool  
47 maintained by the United States Department of Agriculture's

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1 Agricultural Marketing Service, or another similar source of  
2 average price data as may be prescribed by the director.

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4 2. a. For taxable years beginning on or after January 1 2024  
5 but before January 1, 2029, a commercial farm operator that makes  
6 a donation of fruits or vegetables fit for human consumption to a  
7 charitable organization located in this State shall be allowed credit  
8 against the tax otherwise due under the “New Jersey Gross Income  
9 Tax Act,” N.J.S.54A:1-1 et seq., in an amount equal to 10 percent  
10 of the wholesale value of the fruits or vegetables that are donated to  
11 the charitable organization during the taxable year of donation.

12 b. In order to claim the credit allowed pursuant to this section,  
13 a commercial farm operator shall obtain a written statement from  
14 the charitable organization substantiating each donation of fruits or  
15 vegetables made during the taxable year for which the credit is  
16 allowed. At the time a donation is made, the commercial farm  
17 operator shall provide to the charitable organization the wholesale  
18 value of the donated fruits or vegetables and information  
19 identifying the location where the fruits or vegetables were grown.  
20 The charitable organization, upon receipt of the donated fruits or  
21 vegetables, shall issue to the commercial farm operator making the  
22 donation a written statement, signed and dated by an individual  
23 authorized to accept the donation on behalf of the charitable  
24 organization, that contains the variety, grade, and quantity of the  
25 donated fruits or vegetables, the name and address of the  
26 commercial farm operator making the donation, the name and  
27 address of the charitable organization, and, as provided by the  
28 commercial farm operator, the wholesale value of and the location  
29 where the donated fruits or vegetables were grown. When filing a  
30 return that includes a claim for the credit allowed pursuant to this  
31 section, the commercial farm operator shall include a copy of each  
32 written statement issued to the commercial farm operator by a  
33 charitable organization during the taxable year for which the credit  
34 is allowed.

35 c. (1) The order of priority of the application of the credit  
36 allowed pursuant to this section and any other credits allowed by  
37 law shall be as prescribed by the director. The amount of the credit  
38 applied under this section against the gross income tax liability of  
39 the taxpayer for a taxable year, together with any other credits  
40 allowed by law, shall not exceed 50 percent of the tax liability  
41 otherwise due. The amount of the credit allowable under this  
42 section which cannot be used to reduce the taxpayer’s gross income  
43 tax liability for the taxable year due to the limitations of this section  
44 may be carried forward and applied to the earliest available use  
45 within the five taxable years immediately following the taxable year  
46 for which the credit is allowed. The wholesale value of any donated  
47 fruits or vegetables that are included in the calculation of the credit  
48 allowed pursuant to this section shall not be allowed as an amount

1 calculated or claimed pursuant to any other deduction or credit  
2 allowed under the gross income tax.

3 (2) A business entity classified as a partnership for federal  
4 income tax purposes shall not be allowed a credit directly under the  
5 gross income tax, but a taxpayer shall be allowed a credit in  
6 proportion to the taxpayer's distributive share of the business  
7 entity's donation of fruits or vegetables during the taxable year. A  
8 New Jersey S corporation shall not be allowed a credit directly  
9 under the gross income tax, but a taxpayer shareholder shall be  
10 allowed a credit in proportion to the taxpayer's distributive share of  
11 the New Jersey S corporation's donation of fruits or vegetables  
12 during the taxable year.

13 d. As used in this section:

14 "Charitable organization" includes any organization that is  
15 incorporated under the provisions of Title 15 or Title 16 of the  
16 Revised Statutes or Title 15A of the New Jersey Statutes, any  
17 organization that is exempt from taxation under section 501(c)(3) of  
18 the Internal Revenue Code, any entity to which a charitable  
19 contribution as defined under subsection (c) of section 170 of the  
20 Internal Revenue Code is deductible under section 170, and any  
21 food bank as defined in section 2 of P.L.1982, c.178 (C.24:4A-2).

22 "Commercial farm" means "commercial farm" as that term is  
23 defined by section 3 of P.L.1983, c.31 (C.4:1C-3).

24 "Commercial farm operator" means the taxpayer primarily  
25 responsible for the on-site, day-to-day operation of a commercial  
26 farm, at which farm fruits or vegetables are planted, managed, and  
27 harvested for donation.

28 "Wholesale value" means:

29 the value calculated by using quantity-weighted average  
30 wholesale sales price of the donated fruits or vegetables as  
31 determined based on the wholesale sales price paid for each  
32 wholesale sale of fruits or vegetables made by the commercial farm  
33 operator during the calendar month of the commercial farm  
34 operator's donation that are the same variety and grade as the  
35 donated fruits or vegetables and the respective weight, volume, or  
36 other standard unit of measure of each wholesale sale; or

37 if no wholesale sales of fruits or vegetables that are the same  
38 variety and grade as the donated fruits and vegetables are made by  
39 the commercial farm operator during the calendar month of the  
40 commercial farm operator's donation, the wholesale value shall be  
41 equal to the overall average price paid for fruits or vegetables that  
42 are the same variety and grade as the donated fruits or vegetables at  
43 the nearest terminal market located the fewest miles from the  
44 commercial farm operator's commercial farm during the calendar  
45 month of the commercial farm operator's donation as determined  
46 using the Fruit and Vegetable Market News Custom Average Tool  
47 maintained by the United States Department of Agriculture's

1 Agricultural Marketing Service, or another similar source of  
2 average price data as may be prescribed by the director.

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4 3. a. The Director of the Division of Taxation in the  
5 Department of the Treasury shall prepare an annual report regarding  
6 the utilization of the tax credits allowed pursuant to section 1 and 2  
7 of P.L. , c. (C. ) (pending before the Legislature as this  
8 bill), on or before December 1, 2025 and on or before that date each  
9 year thereafter for each of the four immediately following calendar  
10 years.

11 b. The annual report shall be separate and in addition to the  
12 report required to be prepared pursuant to section 1 of P.L.2009,  
13 c.189 (C.52:27B-20a), and shall, at a minimum, describe the  
14 following for tax periods that begin in the calendar year  
15 immediately preceding the calendar year in which the report is  
16 required to be prepared:

17 (1) the number of taxpayers claiming the tax credits allowed  
18 pursuant to section 1 and 2 of P.L. , c. (C. ) (pending  
19 before the Legislature as this bill);

20 (2) the total dollar value of tax credits claimed by commercial  
21 farm operators;

22 (3) the wholesale value of all fruits and vegetables donated to  
23 charitable organizations;

24 (4) the counties in which the greatest percentage of donated  
25 fruits or vegetables were grown by commercial farm operators;

26 (5) the months in which the greatest percentage of fruits and  
27 vegetables were donated to charitable organizations; and

28 (6) the charitable organizations benefiting from the donated  
29 fruits and vegetables.

30 c. The annual report shall be submitted to the Governor and the  
31 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
32 19.1), and shall be made available to the public in electronic form  
33 through a link prominently displayed on the official Internet  
34 website of the Division of Taxation in the Department of the  
35 Treasury, within 10 calendar days of the date the report is required  
36 to be prepared.

37 d. If the Director of the Division of Taxation in the Department  
38 of the Treasury fails to prepare the annual report on or before the  
39 dates required under subsection a. of this section, the director shall  
40 testify before the Senate Economic Growth Committee or the  
41 Assembly Agriculture and Food Security Committee, or their  
42 successor committees, or any other legislative committee  
43 determined by the President of the Senate or the Speaker of the  
44 General Assembly. At a minimum, the director shall explain why  
45 the annual report was not prepared before the required date of  
46 completion and describe all actions taken by the division to prepare  
47 the annual report.

1       4. This act shall take effect immediately.

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STATEMENT

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6       This bill would provide a temporary credit against the corporation  
7 business tax and the gross income tax based on the value of certain  
8 donated fruits and vegetables. Specifically, the tax credit would be  
9 made available to commercial farm operators who donate fruits or  
10 vegetables that are fit for human consumption to a charitable  
11 organization located in this State during tax periods beginning on or  
12 after January 1, 2024, but before January 1, 2029. The amount of the  
13 credit would equal 10 percent of the wholesale value of the fruits or  
14 vegetables donated during the tax period. However, if a commercial  
15 farm operator were unable to claim any portion of the credit otherwise  
16 permitted for a tax period, the unused credits could be carried forward  
17 for the earliest available use during the five tax periods following the  
18 period for which the credits were allowed.

19       Under the bill, a commercial farm operator would be required to  
20 obtain a written statement from the charitable organization before  
21 claiming the tax credit. In addition to certain other information, this  
22 statement would specify the variety, grade, and quantity of the donated  
23 fruits and vegetables and the wholesale value of the fruits and  
24 vegetables, as provided by the commercial farm operator. The bill  
25 would require a commercial farm operator to include a copy of each  
26 statement issued by a charitable organization when filing a tax return  
27 that claims the credit.

28       The bill would also require the Director of the Division of  
29 Taxation in the Department of the Treasury to prepare an annual report  
30 on the utilization of the credits provided by the bill. Under the bill, the  
31 director would be required to prepare this report by December 1, 2025,  
32 and on or before that same date in each of the following four years.  
33 However, if the director fails to prepare the annual report before the  
34 required date of completion, the director would be required to testify  
35 before the Senate Economic Growth Committee, the Assembly  
36 Agriculture and Food Security Committee, or any other legislative  
37 committee determined by the President of the Senate or the Speaker of  
38 the General Assembly, to explain the delay.