



Food Donations

A FARMER'S GUIDE

Food Recovery connects individuals and communities in need to excess fresh fruits and vegetables. Farmers who have excess fresh fruits and vegetables may qualify for a tax deduction when those fruits and vegetables are taken from their farm and given to those in need. Read below to find out more about tax deductions that may be available to you.

TAX DEDUCTIONS

What is the enhanced federal tax deduction?

A tax deduction is a reduction of the taxpayer's taxable income, which is used to calculate the amount of taxes owed. As a farmer you can reduce food waste in Florida while receiving tax incentives.

Who is eligible for the deduction?

Any business, including farms, that donates apparently wholesome food for charitable purposes to a non-profit organization may claim a tax deduction.

What does a farm need to receive from the recipient organization to claim the tax deduction?

1. A description of the contributed products, including the weight and date donated;
2. A statement that the products will be used as a charitable contribution (i.e. the products will not be exchanged for money, other property, or services);
3. A statement that the recipient organization is recognized as a 501(c)(3) non-profit; and
4. A statement that adequate records will be maintained and made available to the IRS upon request.

How is the deduction calculated?

The deduction allows businesses to deduct the lesser of either:

- (a) twice the basis of the donated food; or
- (b) the basis value of the donated food plus one half of the food's expected profit margin, if it were sold at fair market value.

EXAMPLE: A farmer donates ten pounds of oranges to a charitable organization that the farm normally sells for \$2.00 per pound of \$20.00 (FMV).

	Basis Market				Total
(a) Deduction	\$5	x	2	=	\$10
(b) Deduction	\$5	+	(15/2)	=	\$12.50

Basis Value: 25% of Fair Market Value (FMV) | **Expected Profit Margin:** Fair Market Value – Basis Value

PROTECTION FROM CIVIL AND CRIMINAL LIABILITY

There are State and Federal laws that protect farmers from liability when making donations of food to nonprofit organizations that feed the hungry.

The Bill Emerson Good Samaritan Food Donation Act of 1996

The Bill Emerson Good Samaritan Food Donation Act protects individuals and nonprofit organizations from civil and criminal liability associated with the donation of apparently wholesome foods if donated in “good faith.” The Act also protects farmers from civil and criminal liability in the event individuals collecting food for donation to charity are injured on their property, except in cases of gross negligence.

FLA. STAT. § 768.136 (2014) Liability for canned or perishable food distributed free of charge.

This law protects a food donor or gleaner who donates food to a charitable or nonprofit organization, and the charitable or non-profit organization which accepts, collects, transports or distributes such food without charge, from criminal or civil liability arising from the condition of the food, except in cases of gross negligence, recklessness, or intentional misconduct.

FLA. STAT. § 768.137 (1997) Limitation of civil liability for certain farmers.

This law protects any farmer who allows persons to enter the land for the purpose of removing any crops that remain in the fields after harvest from civil liability “arising out of any injury or death resulting from the nature or condition of such land or the nature, age, or condition of any such farm produce or crop,” except in cases of gross negligence, intentional act, or nondisclosure of known dangerous conditions.

For more information, contact us at:

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