

# TITLE 15

## DEPARTMENT OF AGRICULTURE

### Subtitle 01 OFFICE OF THE SECRETARY

#### Chapter 12 Food Donation Pilot Program

Authority: Tax-General Article §10-741, Annotated Code of Maryland

##### **.01 Purpose.**

*In cooperation with the Comptroller, this chapter explains the Secretary of Agriculture's pilot program for tax years 2017, 2018 and 2019 only that provides a tax credit against the State income tax for eligible food donations made by a farm located in Anne Arundel, Calvert, Charles, Montgomery, Prince George's, or St. Mary's counties.*

##### **.02 Definitions.**

A. *In this chapter, the following terms have the meanings indicated:*

B. *Terms Defined.*

(1) *"Certified Organic Produce" means an eligible food donation that is certified under Title 10, Subtitle 14 of the Agriculture Article as an organically produced commodity.*

(2) *"Eligible Food Donation" means fresh farm products for human consumption.*

(3) *"Qualified Farm" means a farm business that is located in Anne Arundel County, Calvert County, Charles County, Montgomery County, Prince George's County, or St. Mary's County.*

(4) *"Secretary" means the Secretary of Agriculture or the Secretary's designee.*

(5) *"Tax Credit Certificate Administrator" or "TCCA" means a person or an organization that is authorized under this chapter to receive eligible food donations.*

##### **.03 Income Tax Credit Limitations.**

A. *Subject to the limitations of this chapter, a qualified farm may claim a credit against state income tax for an eligible food donation in the amount stated on any tax credit certificate issued to a qualified farm by a qualified tax credit certificate administrator.*

B. *The amount of tax credit claimed by a qualified farm is controlled by Tax-General Article § 10-741 of the Annotated Code of Maryland.*

C. *The amount of the tax credit may only be claimed by a qualified farm beginning after December 31, 2016, but before January 1, 2020.*

D. *Unless increased by the Secretary, the aggregate amount of credits for any taxable year for a qualified farm may not exceed \$5,000.*

E. *A TCCA may not issue a tax credit certificate after December 31, 2019.*

##### **.04 Tax Credit Certificate Administrator**

A. *General Requirements*

(1) *Unless certified by the Secretary, a person or organization may not act as a TCCA. A certified TCCA shall agree in writing with the Secretary to comply with requirements of this chapter.*

(2) *A TCCA certified by the Secretary, that receives a donation of an eligible food donation from a qualified farm shall issue the qualified farm a tax credit certificate [the Secretary in consultation with the comptroller are required to prepare tax certificate forms] that provides the following information:*

(a) *The date of donation;*

(b) *The identity of the qualified farm;*

(c) *The type of donation;*

(d) *The weight of the donation;*

(e) *The value of the donation;*

(f) *The maximum amount of the tax credit for which the qualified farm is eligible; and*

(g) *Any other information the State Department of Agriculture or Comptroller requires.*

(3) *Within 30 calendar days after issuing a tax credit certificate, the certified TCCA shall provide a copy of the tax credit certificate to the Secretary and the Comptroller.*

(4) *When notified by the Secretary, the TCCA shall stop issuing tax credit certificates as required by Tax-General Article § 10-741(e)(6).*

(5) *After the Secretary notifies each TCCA to stop issuing tax credit certificates when the total amount of the tax credit certificates issued during the fiscal year equals or exceeds \$200,000, the Secretary may authorize the issuance of any remaining credits as provided in Tax-General Article § 10-741(E) (6) and (F).*

B. *Tax Credit Value*

(1) *The TCCA shall determine the value of the tax credit as follows:*

(a) A qualified farm that makes eligible food donations is eligible for a tax credit certificate with a stated tax credit amount equal to 50% of the value of eligible food donation.

(b) A qualified farm that makes a donation of certified organic produce is eligible for a tax credit certificate with a stated tax credit amount equal to 75% of the value of the donated certified organic produce.

(c) The TCCA shall determine the value of any eligible food donations based on the Secretary's weekly published categories and values of certified organic produce and food donations as required by Tax-General Article § 10-741 (D).

**C. Record Requirement**

(1) The TCCA shall maintain any records relating to the issuance of any tax credit certificate to any qualified farm.

(2) Any record shall be maintained for three years and shall be available to the Secretary or the Comptroller upon request.

**D. Conflicts of Interest**

A TCCA may not issue a tax credit certificate to any person who owns or operates a qualified farm if the TCCA has a business interest or is family of the owner or operator in the farm.

**.05 Certification of Tax Credit Certificate Administrator.**

An applicant who applies to serve as a Tax Credit Administrator shall apply to the Secretary on a departmental form and shall have the following qualifications:

A. Be a 501 c 3 non-profit

B. Have record keeping capabilities (information systems) that includes the: date of the donation, farm name/farmer, type of fresh farm product, and volume in pounds of produce received

C. Be certified in and comply with safe food handling practices and have been reviewed by an outside organization (i.e. health inspector, AIB certified)

D. Possess a scale certified by the Maryland Department of Agriculture that is calibrated on a quarterly basis

E. Follow food safety regulations regarding storage and inventory; and

F. Have an established partner network for quick food distribution or distribute directly to clients

**.06 Application Review and Approval.**

A. The Secretary shall review each application and certify the most qualified applicants who will best promote the objectives of the Food Donation Pilot Program as described in this Chapter.

B. Upon approval of an application for certification, the certified applicant shall execute an agreement with the Secretary that describes the duties and responsibilities of a person or organization acting as a Tax Credit Certificate Administrator.

**.07 Penalty.**

Upon notice and an opportunity to be heard, for any violation of this chapter, the Secretary may revoke or suspend the authority of any TCCA to issue a tax credit certificate for any qualified farm.

JOSEPH BARENFELDER

SECRETARY