

141.392 Tax credit for donated edible agricultural products.

- (1) For purposes of this section:
 - (a) "Donor" means a qualified taxpayer who provides free of fee or charge edible agricultural products to a nonprofit food program operating in Kentucky;
 - (b) "Edible agricultural products" means fruits, vegetables, beef, poultry, pork, fish, or any other edible product raised or grown in Kentucky that is intended for and fit for human consumption;
 - (c) "Nonprofit food program" means a surplus food collection and distribution program operated and established to collect donated food for redistribution to persons in need and is recognized as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code; and
 - (d) "Qualified taxpayer" means a person responsible for and deriving income from:
 1. Growing fruits, vegetables, or other edible agricultural products; or
 2. Raising beef, poultry, pork, fish, or other edible agricultural products.
- (2)
 - (a) For taxable years beginning on or after January 1, 2014, but before January 1, 2018, any donor shall be allowed a nonrefundable credit against the tax imposed by KRS 141.020, or 141.040 and 141.0401, with the ordering of credits as provided in KRS 141.0205, in the amount equal to ten percent (10%) of the value of the donated edible agricultural products as determined under subsection (3)(b) of this section.
 - (b) A qualified taxpayer that is a pass-through entity not subject to the tax imposed by KRS 141.040 and that has tax credits approved under this section shall apply the credits against the limited liability entity tax imposed by KRS 141.0401, and shall also distribute the amount of the approved tax credits to each partner, member, or shareholder based on the partner's, member's, or shareholder's distributive share of income as determined for the year during which the tax credits are approved, with the ordering of credits as provided in KRS 141.0205.
- (3)
 - (a) At the time of the donation, the donor shall provide to the nonprofit food program the estimated value of the donated edible agricultural products as determined under paragraph (b) of this subsection. The nonprofit food program shall provide to the donor, on a form prescribed by the department, a signed and dated statement containing, at a minimum:
 1. The type and quantity of product donated;
 2. The name, address, and taxpayer identification number of the donor or donors;
 3. The name and address of the donee nonprofit food program; and
 4. The estimated value of the donated edible agricultural products, as provided by the donor.
 - (b) The donor shall determine the value of the donated edible agricultural products as follows:

1. If there was a previous sale of the edible agricultural products to a buyer, the donor should retain a copy of an invoice or other statement identifying the price received by the donor for the edible agricultural products of comparable grade or quality; or
 2. If there is no previous sale to a buyer, the donor shall on the date of the donation, determine the value of the donated edible agricultural products based on the fair market value as determined by average weekly regional produce auction prices or United States Department of Agriculture prices for meat, fish, and dairy products.
- (4) A qualified taxpayer claiming the tax credit permitted under this section shall attach the form prescribed under subsection (3) of this section to the tax return claiming the credit.
 - (5) Any tax credit allowable under this section that is not used by the qualified taxpayer in the current tax year may be carried forward for up to four (4) succeeding years, until the credit has been exhausted.
 - (6) The department may promulgate administrative regulations to carry out this section.

Effective: June 25, 2013

History: Created 2013 Ky. Acts ch. 131, sec. 32, effective June 25, 2013.