

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 644
OFFERED BY MR. RYAN OF WISCONSIN**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fighting Hunger In-
3 centive Act of 2015”.

4 **SEC. 2. EXTENSION AND EXPANSION OF CHARITABLE DE-
5 DUCTION FOR CONTRIBUTIONS OF FOOD IN-
6 VENTORY.**

7 (a) PERMANENT EXTENSION.—Section 170(e)(3)(C)
8 of the Internal Revenue Code of 1986 is amended by strik-
9 ing clause (iv).

10 (b) INCREASE IN LIMITATION.—Section 170(e)(3)(C)
11 of such Code, as amended by subsection (a), is amended
12 by striking clause (ii), by redesignating clause (iii) as
13 clause (iv), and by inserting after clause (i) the following
14 new clauses:

15 “(ii) LIMITATION.—The aggregate
16 amount of such contributions for any tax-
17 able year which may be taken into account
18 under this section shall not exceed—

1 “(I) in the case of any taxpayer
2 other than a C corporation, 15 per-
3 cent of the taxpayer’s aggregate net
4 income for such taxable year from all
5 trades or businesses from which such
6 contributions were made for such
7 year, computed without regard to this
8 section, and

9 “(II) in the case of a C corpora-
10 tion, 15 percent of taxable income (as
11 defined in subsection (b)(2)(D)).

12 “(iii) RULES RELATED TO LIMITA-
13 TION.—

14 “(I) CARRYOVER.—If such aggre-
15 gate amount exceeds the limitation
16 imposed under clause (ii), such excess
17 shall be treated (in a manner con-
18 sistent with the rules of subsection
19 (d)) as a charitable contribution de-
20 scribed in clause (i) in each of the 5
21 succeeding taxable years in order of
22 time.

23 “(II) COORDINATION WITH OVER-
24 ALL CORPORATE LIMITATION.—In the
25 case of any charitable contribution al-

1 lowable under clause (ii)(II), sub-
2 section (b)(2)(A) shall not apply to
3 such contribution, but the limitation
4 imposed by such subsection shall be
5 reduced (but not below zero) by the
6 aggregate amount of such contribu-
7 tions. For purposes of subsection
8 (b)(2)(B), such contributions shall be
9 treated as allowable under subsection
10 (b)(2)(A).”.

11 (c) DETERMINATION OF BASIS FOR CERTAIN TAX-
12 PAYERS.—Section 170(e)(3)(C) of such Code, as amended
13 by subsections (a) and (b), is amended by adding at the
14 end the following new clause:

15 “(v) DETERMINATION OF BASIS FOR
16 CERTAIN TAXPAYERS.—If a taxpayer—
17 “(I) does not account for inven-
18 tories under section 471, and
19 “(II) is not required to capitalize
20 indirect costs under section 263A,
21 the taxpayer may elect, solely for purposes
22 of subparagraph (B), to treat the basis of
23 any apparently wholesome food as being
24 equal to 25 percent of the fair market
25 value of such food.”.

1 (d) DETERMINATION OF FAIR MARKET VALUE.—
2 Section 170(e)(3)(C) of such Code, as amended by sub-
3 sections (a), (b), and (c), is amended by adding at the
4 end the following new clause:

5 “(vi) DETERMINATION OF FAIR MAR-
6 KET VALUE.—In the case of any such con-
7 tribution of apparently wholesome food
8 which cannot or will not be sold solely by
9 reason of internal standards of the tax-
10 payer, lack of market, or similar cir-
11 cumstances, or by reason of being pro-
12 duced by the taxpayer exclusively for the
13 purposes of transferring the food to an or-
14 ganization described in subparagraph (A),
15 the fair market value of such contribution
16 shall be determined—

17 “(I) without regard to such inter-
18 nal standards, such lack of market,
19 such circumstances, or such exclusive
20 purpose, and

21 “(II) by taking into account the
22 price at which the same or substan-
23 tially the same food items (as to both
24 type and quality) are sold by the tax-
25 payer at the time of the contribution

1 (or, if not so sold at such time, in the
2 recent past).”.

3 (e) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except as otherwise pro-
5 vided in this subsection, the amendments made by
6 this section shall apply to contributions made after
7 the date of the enactment of this Act, in taxable
8 years ending after such date.

9 (2) LIMITATION; APPLICABILITY TO C CORPORA-
10 TIONS.—The amendments made by subsection (b)
11 shall apply to contributions made in taxable years
12 ending after the date of the enactment of this Act.

