



Statement for the Record

Submitted by

Feeding America

**For The Hearing on Certain Expired
and Expiring Tax Provisions**

Before The

U.S. House of Representatives

Committee on Ways and Means

Subcommittee on Select Revenue Measures

April 26, 2012

Chairman Tiberi, Ranking Member Neal, and members of the House Subcommittee on Select Revenue Measures, thank you for the opportunity to submit this statement for the record on behalf of Feeding America. We are grateful to the Subcommittee for recognizing the importance of examining the impact that numerous expired and expiring tax extenders have on the US economy and American taxpayers. In particular, Feeding America recognizes the vitally important contribution that the charitable giving tax extenders have on the nonprofit community and those we serve. We urge Congress to swiftly renew expired tax provisions while the process of examining extenders in the context of comprehensive tax reform continues.

Feeding America is the nation's leading domestic hunger-relief charity with a network of more than 200 food banks in every state serving over 60,000 local food assistance agencies. Feeding America food banks as well as food assistance agencies rely on a variety of public and private funding streams, government commodities, as well as food donated by retailers, food manufacturers, farmers, and restaurants. Last year, **37 million people, or one in eight Americans, received emergency food assistance** through the Feeding America network of over 200 food banks. This represents **an increase of 46%** since 2006. As a result, **approximately 5.7 million people per week** are now receiving emergency food assistance through Feeding America food banks.

During the worst economic downturn since the Great Depression, the number of American families struggling to make ends meet has increased significantly. With unemployment still hovering near 8 percent and millions of Americans underemployed, the need for food assistance continues to grow and food banks continue to be pressed to meet the need in their communities.

The food distributed by Feeding America and the programs our food bank members run in local communities provides a solid return on taxpayer investments and helps reduce state government and private sector health costs as well as investing in a healthy future workforce. Feeding America network members utilize local and national public private partnerships to maximize the impact of government commodities and provide the most complete and nutritious food packages available. We also continue to do more with less, responding to an unprecedented increase in demand while combatting a 30% decline in surplus agriculture products from USDA, stagnation in manufactured food donations and a staggering 150% increase in the amount of food *purchased* by the network.

The food donation tax deduction (Internal Revenue Code Section 170 e3) is a critical tool for Feeding America network members in obtaining donated food. The deduction provides an incentive for businesses to donate fit and wholesome food inventory to a 501c3 organization serving the poor and needy. The deduction seeks to capture food that would otherwise be wasted by providing an incremental tax deduction over the cost of goods sold if the food is

donated to a 501c3. Without Section 170e3, there is no incentive for a business to donate the food verses dumping the food inventory in question or selling the food to another retail outlet.

Since the inception of the food donation tax deduction in 1976, the provision was available to C corporation taxpayers only. However, as manufacturing efficiencies and improved sales forecasting by food manufacturers decrease the surplus goods donated to Feeding America members, it is vital to secure additional food product that is available across the food industry spectrum, including from small businesses like restaurants, farmers, and retailers. In 2006, Congress enacted as part of the Pension Protection Act a two year provision expanding the food donation tax deduction to include all business taxpayers as eligible donors, not just C corporations. This modification to the food donation tax deduction gave small businesses, including pass-through entities (Subchapter S corporations, limited liability companies), the ability to take the same enhanced deduction for the contribution of food inventory as C corporations.

Feeding America strongly believes enactment of the Good Samaritan Hunger Relief Tax Incentive Act would help encourage donations of excess food inventory across the food industry spectrum. The legislation would make permanent the temporary provision allowing all qualified business taxpayers (including farmers, retailers, restaurants and food manufacturers) to take a heightened charitable tax deduction for donations of fit and wholesome food to non-profit charitable organizations that serve the needy. Feeding America has seen a significant increase in the amount of food donations from small businesses such as restaurants, retailers, and farmers since the temporary provision was enacted in 2006. According to data collected by Food Donation Connection, in 2005 prior to the 2006 expansion donations of food from restaurants enrolled in FDC's Harvest Program were approximately 15 million pounds. By 2008, that amount had grown through the expansion of the provision to include 22 million pounds of food donated in 2008. However, the temporary nature of this provision makes it very difficult for small businesses to incorporate food donations into a long term business plan and reduces the amount of businesses willing to donate food.

The legislation would also allow farmers and other "cash method" accounting taxpayers to consider 25% of the fair market value of the donated food as the cost to produce the food. Current law does not accommodate the accounting choices that most farmers organized as sole proprietors use and prevents farmers that are sole proprietors from taking the tax deduction.

Lastly, the legislation would codify an important Tax Court ruling, *Lucky Stores, Inc. v. Commissioner of Internal Revenue*, in which the Court upheld the right of the taxpayer to determine a reasonable fair market value of donated food rather than the IRS.

We greatly appreciate the opportunity to submit testimony today on behalf of Feeding America, our over 200 member food banks, and the 37 million Americans fed last year. The food donation tax extender and the broader Good Samaritan Hunger Relief Tax Incentive Act would provide strong incentives to capture millions of pounds of nutritious food currently going

to waste while giving small business owners fair and equitable access to the food donation giving incentives C corporations have had for decades.

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