

111TH CONGRESS
1ST SESSION

S. 1313

To amend the Internal Revenue Code of 1986 to permanently extend and expand the charitable deduction for contributions of food inventory.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2009

Mr. LUGAR (for himself, Mr. LEAHY, Mrs. LINCOLN, Mr. DURBIN, Mr. SANDERS, and Mr. ROBERTS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to permanently extend and expand the charitable deduction for contributions of food inventory.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Good Samaritan Hun-
5 ger Relief Tax Incentive Extension Act of 2009”.

1 **SEC. 2. PERMANENT EXTENSION AND EXPANSION OF CHAR-**
 2 **ITABLE DEDUCTION FOR CONTRIBUTIONS OF**
 3 **FOOD INVENTORY.**

4 (a) IN GENERAL.—Subparagraph (C) of section
 5 170(e)(3) of the Internal Revenue Code of 1986 (relating
 6 to special rule for certain contributions of inventory and
 7 other property) is amended to read as follows:

8 “(C) SPECIAL RULE FOR CONTRIBUTIONS
 9 OF FOOD INVENTORY.—

10 “(i) GENERAL RULE.—In the case of
 11 a charitable contribution of food from any
 12 trade or business of the taxpayer, this
 13 paragraph shall be applied—

14 “(I) without regard to whether
 15 the contribution is made by a C cor-
 16 poration, and

17 “(II) only to food that is appar-
 18 ently wholesome food.

19 “(ii) LIMITATION ON REDUCTION.—In
 20 the case of any such contribution, notwith-
 21 standing subparagraph (B), the amount of
 22 the reduction determined under paragraph
 23 (1)(A) shall not exceed the amount by
 24 which the fair market value of the appar-
 25 ently wholesome food exceeds twice the
 26 basis of such food.

1 “(iii) DETERMINATION OF BASIS.—If
2 a taxpayer—

3 “(I) does not account for inven-
4 tories under section 471, and

5 “(II) is not required to capitalize
6 indirect costs under section 263A,
7 the taxpayer may elect, solely for purposes
8 of subparagraph (B), to treat the basis of
9 any apparently wholesome food as being
10 equal to 50 percent of the fair market
11 value of such food.

12 “(iv) DETERMINATION OF FAIR MAR-
13 KET VALUE.—In the case of any such con-
14 tribution of apparently wholesome food
15 which, solely by reason of internal stand-
16 ards of the taxpayer, lack of market, or
17 similar circumstances, or which is pro-
18 duced by the taxpayer exclusively for the
19 purposes of transferring the food to an or-
20 ganization described in subparagraph (A),
21 cannot or will not be sold, the fair market
22 value of such contribution shall be deter-
23 mined—

24 “(I) without regard to such inter-
25 nal standards, such lack of market,

1 such circumstances, or such exclusive
 2 purpose, and

3 “(II) by taking into account the
 4 price at which the same or substan-
 5 tially the same food items (as to both
 6 type and quality) are sold by the tax-
 7 payer at the time of the contribution
 8 (or, if not so sold at such time, in the
 9 recent past).

10 “(v) APPARENTLY WHOLESOME
 11 FOOD.—For purposes of this subpara-
 12 graph, the term ‘apparently wholesome
 13 food’ has the meaning given to such term
 14 by section 22(b)(2) of the Bill Emerson
 15 Good Samaritan Food Donation Act (42
 16 U.S.C. 1791(b)(2)), as in effect on the
 17 date of the enactment of this subpara-
 18 graph.”.

19 (b) EFFECTIVE DATE.—The amendment made by
 20 this section shall apply to contributions made after the
 21 date of the enactment of this Act, in taxable years ending
 22 after such date.

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