

# 2024 Instructions for Form FTB 3814

## New Donated Fresh Fruits or Vegetables Credit

### What's New

**Credit Limitation** – For taxable years beginning on or after January 1, 2024, and before January 1, 2027, there is a \$5,000,000 limitation on the application of business credits. The total of all business credits including the carryover of any business credit for the taxable year may not reduce the “net tax”, for personal income filers, or “tax”, for corporate filers, by more than \$5,000,000. Business credits should be applied against “net tax” before other credits. For taxpayers included in a combined report, the limitation is applied at the group level.

For each taxable year of the limitation, taxpayers may make an irrevocable election to receive an annual refundable credit amount for the credits disallowed due to the limitation. Taxpayers may claim 20% of this refundable credit in each year of a five-year refundable period. The refundable period begins the third taxable year after the taxable year in which the election is made. To make this irrevocable election, complete form FTB 3870, Election for Refundable Credit, and submit it with an original, timely filed return.

S corporations may **not** elect to make credits taken at the entity level refundable.

If a taxpayer does not choose to make the election outlined above, business credits disallowed due to the limitation may be carried over. The carryover period for disallowed credit is extended by the number of taxable years the credit was not allowed. For more information, refer to California Revenue and Taxation Code (R&TC) Sections 17039.4, 17039.5, 23036.4 and 23036.5 and get form FTB 3870.

### General Information

This credit is for qualified taxpayers who donate fresh fruits, vegetables, or other qualified donation items to a food bank located in California under Chapter 5 of Part 1 of Division 21 of the Food and Agricultural Code.

**Registered Domestic Partner (RDP)** – For purposes of California income tax, references to a spouse, husband, or wife also refer to a California RDP, unless otherwise specified.

### A Purpose

Use form FTB 3814, New Donated Fresh Fruits or Vegetables Credit, to figure and claim the amount of tax credit allowed for the donation of fresh fruits, vegetables, or other qualified donation items made by a qualified taxpayer to a food bank located in California. The credit is nonrefundable, and the unused credit may be carried forward for seven years.

The New Donated Fresh Fruits or Vegetables Credit must be claimed on a timely filed original tax return of the qualified taxpayer.

S corporations, estates, trusts, partnerships, and limited liability companies (LLCs) classified as partnerships should complete form FTB 3814 to figure the amount of credit to pass through to shareholders, beneficiaries, partners, or members. Attach this form to Form 100S, California S Corporation Franchise or Income Tax Return; Form 541, California Fiduciary Income Tax Return; Form 565, Partnership Return of Income; or Form 568, Limited Liability Company Return of Income. Show the pass-through credit for each shareholder, beneficiary, partner, or member on Schedule K-1 (100S, 541, 565, or 568), Share of Income, Deductions, Credits, etc.

### B Description

The New Donated Fresh Fruits or Vegetables Credit is available for each taxable year beginning on or after January 1, 2017, and before January 1, 2027. The qualified taxpayer is allowed a credit in the amount equal to 15% of the qualified value of the donated fresh fruits, vegetables, or other qualified donation items made to California food banks, based on weighted average wholesale price.

For taxable years beginning on or after January 1, 2020, the list of qualified donation items that qualify for a tax credit has been expanded. Qualified donation items include fruits, vegetables, and nuts in fresh, canned, frozen, dried, dehydrated, and 100% juice forms. The qualified donation items may also include meat food products, poultry, canned meat, canned seafood, eggs, fish, rice, beans, cheese, milk, dehydrated milk, yogurt, butter, infant formula, vegetable oil, olive oil, bread, pasta, pasta sauce, soup, and salsa. For more information on what qualifies as a qualified donation item, see [California Revenue and Taxation Code \(R&TC\) Sections 17053.88.5 and 23688.5](#).

### C Qualifications

A **qualified donor** is a taxpayer defined as the person responsible for planting a crop, managing the crop, and harvesting the crop from the land. A qualified donor is also the person responsible for growing or raising, harvesting, packing, or processing a qualified donation item. A qualified donor is **not** a retailer.

The **qualified value** is calculated by using the weighted average wholesale price based on the qualified taxpayer's total like grade wholesale sales of the donated item sold within the calendar month of the qualified taxpayer's donation. If no wholesale sales of the donated item have occurred in the calendar month of the qualified taxpayer's donation, the qualified value will be equal to the nearest regional wholesale market price for the calendar month of the donation based on the same grade products as published by the United States Department of Agriculture's Agricultural Marketing Service or its successor.

#### Certification

The taxpayer must provide the food bank the qualified value of qualified donation items and information regarding the origin of where the qualified donation items were grown, processed, or both grown and processed.

Upon receipt of the qualified donation items, the recipient shall provide a certificate to the taxpayer substantiating the donation.

The certificate must contain a statement signed and dated by a person authorized to sign on behalf of the food bank, the type and quantity of the products donated, the name of the donor or donors, the name and address of the food bank, and as initially provided by the taxpayer, the qualified value of the donated products and the location where the donated product was grown, processed, or both grown and processed. The certificate should be provided to the Franchise Tax Board (FTB) only upon request.

### D Limitations

For taxable years beginning on or after January 1, 2024, and before January 1, 2027, there is a \$5,000,000 limitation on the application of business credits, including carryover. For taxpayers included in a combined report, the limitation is applied at the group level.

No credit will be allowed unless the taxpayer received a certificate from the food bank certifying donation of the qualified donation items.

A taxpayer and spouse/RDP may claim only one credit. If separate returns are filed, the credit may be taken by either spouse/RDP or divided equally between them. If more than one taxpayer shares in the expenses eligible for the credit, each taxpayer may claim the credit in proportion to his or her share of the expenses paid or incurred. In the case of a partnership, the credit will be divided among the partners according to the partnership agreement.

S corporations may claim only 1/3 of the credit against the 1.5% entity-level tax (3.5% for financial S corporations). The remaining 2/3 must be disregarded and may not be used as carryover. S corporations may pass through 100% of the credit to their shareholders.

If a taxpayer owns an interest in a disregarded business entity [a single member limited liability company (SMLLC) not recognized by California, and for tax purposes is treated as a sole proprietorship owned by an individual or a branch owned by a corporation], the credit amount received from the disregarded entity that can be utilized is limited to the difference between the taxpayer's regular tax figured with the income of the disregarded entity, and the taxpayer's regular tax figured without the income of the disregarded entity.

For more information on SMLLC, get Form 568, Limited Liability Company Tax Booklet.

This credit cannot reduce the minimum franchise tax (corporations and S corporations), annual tax (limited partnerships, limited liability partnerships, and LLCs classified as partnerships), the alternative minimum tax (corporations, exempt organizations, individuals, and fiduciaries), the built-in gains tax (S corporations), or the excess net passive income tax (S corporations).

This credit cannot reduce regular tax below tentative minimum tax. Get Schedule P (100, 100W, 540, 540NR, or 541), Alternative Minimum Tax and Credit Limitations, for more information.

**This credit is not refundable.**

## E Assignment of Credits

**Assigned Credits to Affiliated Corporations** – Credit earned by members of a combined reporting group may be assigned to an affiliated corporation that is an eligible member of the same combined reporting group. A credit assigned may only be claimed by the affiliated corporation against its tax liability. For more information, get form FTB 3544, Assignment of Credit, or go to [ftb.ca.gov](http://ftb.ca.gov) and search for **credit assignment**.

## F Carryover

If the available credit exceeds the current year tax liability or is limited by tentative minimum tax, the unused credit may be carried over to reduce the tax in the following seven years or until exhausted, whichever occurs first. Apply the carryover to the earliest taxable year possible. The carryover period for disallowed credit is extended, without regard to carryover provisions, by the number of taxable years the credit was not allowed. In no event can the credit be carried back and applied against a prior year's tax.

If you have a carryover, retain all records that document this credit and carryover used in prior years. The FTB may require access to these records.

## Specific Line Instructions

### Part I – Information on Donated Fresh Fruits, Vegetables, or Other Qualified Donation Items

Provide the date the qualified products were donated, the type, the quantity, the county in which the products originated, and the qualified value of the products.

When completing the table, if additional space is necessary, use additional forms FTB 3814 to report all qualified products being donated and their respective information.

## Part II – Available Credit

### Line 1 – Qualified value of donated fresh fruits, vegetables, or other qualified donation items

Enter the qualified value of the donated fruits, vegetables or other qualified donation items grown, processed, or both grown and processed.

**Note:** Any deduction allowed for these same costs must be reduced by the amount of credit figured for the current taxable year (the amount shown on line 5).

### Line 3 – Credit received from pass-through entities

If you received pass-through donated fresh fruits or vegetables credit(s) from S corporations, estates, trusts, partnerships, or LLCs classified as partnerships, add the amounts and enter the total.

### Line 6a – Credit claimed

**Do not** include assigned credits claimed on form FTB 3544, Part B, List of Assigned Credit Received and/or Claimed by Assignee.

This amount may be less than the amount on line 5 if your credit is limited by your tax liability. For more information, see General Information D, Limitations, and refer to the credit instructions in your tax booklet. Use credit code **238** when you claim this credit.

### Line 6b – Total credit assigned

Corporations that assign credit to other corporations within the same combined reporting group must complete form FTB 3544, Part A, Election to Assign Credit Within Combined Reporting Group. Enter the total amount of credit assigned from form FTB 3544, Part A, column (g) on this line.

### Line 6c – Credit amount to be elected as refundable in future years

You may elect to make credits that are disallowed due to the \$5,000,000 credit limitation refundable in future years. If you intend to make this election on form FTB 3870, enter the amount of credit that would have otherwise been available to reduce tax in this taxable year but for the \$5,000,000 credit limitation. Do not include credit limited by your tax.

You may not elect to have a partial amount of your disallowed credit be refundable. If you elect to make this credit refundable you must make the same election for all other credits you claimed this year that were also disallowed due to the \$5,000,000 credit limitation. If you entered a value in this line, you must also enter it on form FTB 3870 line 1, column (c). Attach your complete form FTB 3870 to your original, timely filed tax return.

### Line 7 – Credit carryover available for future years

**Do not** include any amount you will be electing as a refundable credit on form FTB 3870.

Credit limited by your tax liability cannot be included in an election for refundable credit. These amounts would not have otherwise been able to be claimed, regardless of the \$5,000,000 credit limitation and therefore are not eligible for an election to be made refundable. They can, however, be carried over for future years. Include any such amounts here.

## Franchise Tax Board Privacy Notice on Collection

Our privacy notice can be found in annual tax booklets or online. Go to [ftb.ca.gov/privacy](http://ftb.ca.gov/privacy) to learn about our privacy policy statement, or go to [ftb.ca.gov/forms](http://ftb.ca.gov/forms) and search for **1131** to locate FTB 1131 EN-SP, Franchise Tax Board Privacy Notice on Collection – Aviso de Privacidad del Franchise Tax Board sobre la Recaudación. To request this notice by mail, call 800.338.0505 and enter form code **948** when instructed.