



Instructions for Form CT-649

Farm Donations to Food Pantries Credit

Tax Law – Article 9-A, Section 210-B(52)

CT-649-I

General information

For tax years beginning on or after January 1, 2018, the farm donations to food pantries credit is available to taxpayers who meet the eligibility requirements.

Eligibility

To be eligible for this credit, you must meet **all** of the following requirements:

- you are subject to tax under Tax Law Article 9-A or 22,
- you are an eligible farmer, **and**
- you made a qualified donation or are the owner of a business entity that made a qualified donation to an eligible food pantry.

Definitions

You are *engaged in the business of farming* if you cultivate, operate, or manage a farm for gain or profit, even though the operation may not produce a profit every year.

You are also engaged in the business of farming if you rent your farm property to another person who uses the property in agricultural production and the rental arrangement meets the conditions in **either** A or B:

- A. The amount of the rental is a crop share (shared rental agreement). That is, the amount of rent is based upon the actual production of the land, whether paid to you in cash or in kind; **or**
- B. You have an arrangement with your tenant for your participation in the farm business and you meet **one** of the following four tests:
 - 1) You do any **three** of the following:
 - pay or stand good for at least half of the direct costs of producing the crop;
 - furnish at least half of the tools, equipment, and livestock used in producing the crop;
 - consult with your tenant; and
 - inspect the production activities periodically.
 - 2) You regularly and frequently make, or take an important part in making, management decisions substantially contributing to or affecting the success of the enterprise.
 - 3) Your employees work 100 hours or more, spread over a period of 5 weeks or more, in activities connected with crop production.
 - 4) You do things that, considered in their total effect, show that you are materially and significantly involved in the production of farm commodities.

Farming includes the operation or management of livestock, dairy, poultry, fish, fruit, fur-bearing animal, and vegetable (commonly referred to as truck) farms. *Farming* also includes the operation or management of plantations, ranches, ranges, and orchards.

For example, *farming* includes, but is not limited to, the raising or production of the following commodities:

- field crops, including corn, wheat, oats, rye, barley, hay, potatoes, and dry beans;
- fruits, including apples, peaches, grapes, cherries, and berries;
- vegetables, whether raised conventionally or hydroponically, including tomatoes, snap beans, cabbage, carrots, beets, and onions;

- horticultural specialties, including nursery stock, ornamental shrubs and ornamental trees, and flowers;
- livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, farmed deer, farmed buffalo, ostrich, emus, fur-bearing animals, milk, and eggs;
- aquaculture products, including fish, fish products, water plants, and shellfish (provided the aquaculture products are grown and raised, not merely being harvested or caught); **and**
- honey and beeswax produced from the farmer's own bees.

You are **not** engaged in the business of farming if your principal source of income is from providing agricultural services, such as soil preparation, veterinary services, or farm labor. You are not engaged in the business of farming if you manage or operate a farm for a fee. Furthermore, if you are cultivating or operating a farm for recreation or leisure (such as a hobby farm), you are not engaged in the business of farming. Also forestry and logging are not farming unless the products are used in the operation of a farm or are connected with an otherwise qualifying farm operation as described above.

An *eligible farmer* is a taxpayer that has at least two-thirds of excess federal gross income from farming in the tax year. You meet this definition if you qualify for the single estimated tax payment for farmers for federal and state income tax purposes.

When determining eligibility for partners, they **must** include their share of **both** federal gross income **and** federal gross income from farming passed through to them from the partnership.

Excess federal gross income is the amount of federal gross income from all sources for the tax year in excess of \$30,000.

Note: Farmers **must** include payments from the state's Farmland Protection Program administered by the New York State Department of Agriculture and Markets in federal gross income from farming.

Qualified donation means a donation by an eligible farmer (or a partnership, New York S corporation, or estate or trust that has partners, shareholders, or beneficiaries who are eligible farmers) to an eligible food pantry of any apparently wholesome food grown or produced within New York State.

Apparently wholesome food means food that meets all quality and labeling standards imposed by federal, state, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

Eligible food pantry means any food pantry, food bank, or other emergency food program operating in New York State that has qualified for tax exemption under Internal Revenue Code (IRC) § 501(c)(3).

Credit details

The amount of the credit is equal to 25% of the fair market value of qualified donations made to any eligible food pantry operating in New York during the tax year, not to exceed \$5,000 per tax year.

Example: A corporation qualifies as an eligible farmer and makes qualified donations during the tax year that have a fair market value of \$12,000. The eligible farmer would be allowed a credit of \$3,000 calculated as follows:

$\$12,000$ (fair market value of qualified donations) \times 25% = \$3,000.

An eligible farmer that is a partner, shareholder of a New York S corporation, or beneficiary of an estate or trust, may claim their share of the credit passed through. The \$5,000 limitation is applied at the entity level.

Example: *Partnership ABC has two equal partners and makes qualified donations to an eligible food pantry during the tax year that have a fair market value of \$30,000. Partnership ABC would calculate a credit equal to \$5,000 as follows:*

$\$30,000$ (fair market value of qualified donations) \times 25% = \$7,500

Since the credit is limited to \$5,000 per tax year, each partner may claim \$2,500 of credit if the partner qualifies as an eligible farmer.

The fair market value of food donated to an eligible food pantry is determined by considering the price of the same or similar food items (as to both type and quality) that could be sold by the taxpayer at the time of the contribution. For more information, see IRC § 170(e)(3)(C)(v).

A shareholder, partner, or beneficiary of an estate or trust that is taxable under Article 9-A or 22 may be eligible to claim a share of the credit passed through from a New York S corporation, partnership, estate, or trust that made a qualified donation to an eligible food pantry. The credit amount is determined at the entity level. The shareholder, partner, or beneficiary must meet the definition of an eligible farmer to claim their share of this credit.

The credit cannot reduce the tax due to less than the fixed dollar minimum tax. Any unused amount of credit for the current tax year will be treated as a refund or an overpayment of tax to be credited to next year's tax. Interest will not be paid on the refund or overpayment.

The credit is not allowed against the metropolitan transportation business tax (MTA surcharge) under Article 9-A.

New York S corporations: New York S corporations will calculate the credit, however the S corporation may not use the credit against its own tax liability. Instead, the credit is passed through to the shareholders to use against their personal income tax liabilities on their New York State tax returns.

Combined filers: A taxpayer filing as a member of a combined group is allowed to claim the credit, which is computed on a separate basis but applied against the combined tax.

New York adjustment: Taxpayers may **not** use the same qualified donation to claim both the credit and a qualified charitable contribution deduction (IRC § 170) for New York tax purposes. Corporate taxpayers that claim the credit must add to their federal taxable income on their New York return any qualified donation amounts to a food pantry deducted as a charitable contribution to the extent deducted in computing federal taxable income reported on their New York return. For additional information, see the instructions for the New York State franchise tax return you are filing.

Required documentation

To claim the credit, the taxpayer must receive and keep a receipt (or other written communication) from the eligible food pantry showing the following:

- the date and location of the qualified donation,
- a reasonably detailed description of the qualified donation,
- the name of the eligible food pantry, and
- the employer identification number (EIN) of the eligible food pantry.

The taxpayer must keep the receipt from the eligible food pantry as well as proof of how the donation was valued. Acceptable proof of valuation includes U.S. Department of Agriculture (USDA) online price reports and local co-op pricing guidelines for the date the donation was made.

S corporations must provide their shareholders with the following information:

- the pro rata share or distributive share of the credit,
- the share of federal gross income and federal gross income from farming from the entity,
- a copy of the receipt from the eligible food pantry, and
- the means of valuing the donation.

Line instructions

Line A – Mark an **X** in the appropriate box to determine the parts of this form you need to complete. If you are claiming this credit **both** as a corporation that earned the credit **and** as a corporate partner receiving a share of the credit, mark an **X** in the **Yes** box and complete all appropriate schedules on one Form CT-649.

Line B

CT-3 and CT-3-A filers: Complete *Line B Worksheet*.

CT-3-S filers: Do not complete *Line B Worksheet*. Instead, the shareholders will compute their own federal gross income from farming to determine if they meet the definition of an eligible farmer to claim this credit.

If the percentage shown on *Line B Worksheet*, line 12 is:

- at least 0.6667 (66.67%), mark an **X** in the **Yes** box, **or**
- less than 0.6667 (66.67%), **stop**; you do not qualify for this credit.

Line B Worksheet

For Form CT-3 and CT-3-A filers: Keep for your records

1	Add the amounts from federal Form 1120, lines 3 through 7 and 10 (see instructions)	1	_____
2	Add the gain (not loss) amounts from federal Schedule D (Form 1120), column (h) lines 1a through 5, 8a, 8b, 9, 10, 12, 13, and 14 (see instructions)	2	_____
3	Add the gain (not loss) amounts from federal Form 4797, column (g), lines 2 through 6, 10, and 13 through 16. However, when federal Form 4797 is not filed, but you have amounts reported on federal Form 4684, line 31 or line 38a, include the total gain amount (without netting losses) from those lines (see instructions)	3	_____
4	Enter the code B and C amounts from all federal Schedule K-1s (Form 1065), box 14 that you received from partnerships that you are a partner in, less any partnership amounts from such partnerships already included in lines 1, 2, and 3 (If you are a partner in a partnership that files federal Form 1065-B, see instructions.).....	4	_____
5	Federal gross income (add lines 1 through 4)	5	_____
6	Excess federal gross income (subtract 30,000 from line 5)	6	_____
7	Gross profit from farming included on federal Form 1120, line 3 (see instructions)	7	_____
8	Gross rents from certain rentals of farm property included on federal Form 1120, line 6 (see instructions)	8	_____
9	Add the amounts from federal Form 4797, column (g), that represent gains from the sale of livestock used for draft, breeding, sport, or dairy purposes (see instructions)	9	_____
10	Enter the code B amount from federal Schedule K-1 (Form 1065), box 14 (see instructions)	10	_____
11	Gross income from farming (add lines 7 through 10)	11	_____
12	Divide line 11 by line 6, and round the result to four decimal places	12	_____

Instructions for Line B Worksheet

Line 1 – If federal Form 1120, line 10, includes both income and loss items, include **only** the income amounts. In addition, do **not** include any partnership income included on federal Form 1120, line 10.

Line 2 – Include **only** gains used in calculating the amounts reported on federal Schedule D, column (h). You cannot net loss transactions against gain transactions.

Line 3 – Include **only** gains used in calculating the amounts entered on federal Form 4797, column (g) or on federal Form 4684, line 31 or line 38a. You cannot net loss transactions against gain transactions.

Line 4 – If you are a partner in a partnership that files federal Form 1065-B, include on line 4 the amount of gross **non-farm** income reported on the federal Schedule K-1 (Form 1065-B) in box 9 that you received from the partnership (less any amounts from such partnership included in lines 1, 2, and 3 of Line B Worksheet).

Line 7 – If the corporation has **both** farm **and** non-farm income, include **only** the gross profit attributable to farming activities (see *Definitions*). In this situation, it may be helpful if the corporation completes a pro forma federal Schedule F (Form 1040) to determine its gross profit (income) from farming.

Line 8 – Include only gross rents from the rental of farm property and only if the rental arrangement meets **either** condition A or B listed under *Definitions*.

Line 9 – Include **only** gains (not losses) reported on federal Form 4797 that represent gains from the sale of livestock used for draft, breeding, sport, or dairy purposes. Do **not** include any other gains reported on federal Form 4797 (such as gains from the sale of farm machinery) even though these gains may be related to your farming business.

Line 10 – Do **not** include gross income from fishing included on federal Schedule K-1 (Form 1065), box 14, code B.

Additional sheets – If you have more entries than will fit on the lines provided in Schedule C or D, attach additional sheets in the same format. Include your name and EIN on each sheet and attach them and Form CT-649 with your return.

Schedule A – Computation of credit

Line 3

New York S corporations: Enter this amount on Form CT-34-SH, *New York S Corporation Shareholders' Information Schedule*, and provide your shareholders with their pro rata share of this line. The shareholders will file their own Forms IT-649, *Farm Donations to Food Pantries Credit*, to claim the credit on their NYS personal income tax returns.

All others: Complete Schedule B.

Schedule B – Computation of credit used, refunded, or credited as an overpayment to the next tax year (*New York S corporations do not complete this schedule*)

Lines 4 and 7 entries table

If you filed	Enter on line 4 any net recapture of other tax credits, plus the amount from	Enter on line 7 the fixed dollar minimum tax below
Form CT-3	Part 2, line 2	Part 2, line 1c
Form CT-3-A	Part 2, line 2	Part 2, line 1c

Line 4 – Enter your tax due before credits using the *Lines 4 and 7 entries table* above.

Line 5 – If you are claiming more than one tax credit for this year, enter the total amount of credits claimed before applying this credit; otherwise, enter **0**. You must apply certain credits before this credit.

See Form CT-600-I, *Instructions for Form CT-600, Ordering of Corporation Tax Credits*, for the correct order of credits.

If filing as a member of a combined group, include any amount of tax credit(s), including the farm donations to food pantries credit, being claimed by other members of the combined group, that you want to apply before the credit claimed on this form.

Line 7 – Enter your fixed dollar minimum tax using the *Lines 4 and 7 entries table* above.

Schedule C – Partnership information

Complete this schedule only if you were a partner in a partnership and received a share of the farm donations to food pantries credit from that entity. Enter the name, EIN, and credit amount passed through to you from each partnership. Obtain this information from the partnership(s) allocating the credit to you.

Schedule D – Qualified donations

Complete Schedule D, listing each qualified donation for the tax year. See the definition of *qualified donation*.

Need help? and Privacy notification

See Form CT-1, *Supplement to Corporation Tax Instructions*.
