



DONOR Q & A

What is City Harvest?

City Harvest pioneered food rescue in 1982. We pick up food that would otherwise go to waste from thousands of food donors across New York City and deliver it to emergency food programs, helping to feed nearly 1.4 million New Yorkers that face hunger each year.

What food does City Harvest accept?

City Harvest accepts fresh food, refrigerated and frozen food, dried food, food in boxes, cans, and bottles. Donated food must be prepared by a regulated or licensed food business, such as a restaurant, caterer, wholesaler or bakery. We DO NOT accept products containing alcohol, food that has been previously served, or food that does not meet our food safety standards.

Where does the food go?

Once rescued, food is delivered to 500 emergency food programs including soup kitchens, food pantries, homeless shelters, AIDS care providers, senior centers, and children's daycare centers that serve hungry New Yorkers in all five boroughs.

Who donates to City Harvest?

This year, City Harvest will collect 55 million pounds of excess food from all segments of the food industry, including restaurants, supermarkets, greenmarkets, corporate cafeterias, manufacturers, and farms.

What are the benefits to donating?

Your company will benefit from: potential tax deductions (consult a tax advisor), reduced disposal fees, positive publicity, increased employee morale, and a "green" model by not letting excess food go to waste.

What does our company receive as a record?

Your company will receive a receipt from our driver stating the date and poundage donated for each pick up. An annual acknowledgment letter will be mailed for taxation purposes. City Harvest will also send a year-end certificate for your generosity.

What about food safety and liability?

Handling food safely is paramount to City Harvest. We follow local and national food safety guidelines to ensure your donated food is delivered in a safe condition. You are protected from liability under Federal and NY State Good Samaritan Laws. For more details see the "Food Safety & Liability" fact sheet.

How do we pack donations?

City Harvest supplies clear, food-grade bags. For more details on how to pack certain items, see the "City Harvest Donation Guidelines" fact sheet.

How can we get started?

It is easy to become a donor. In the time it takes to throw away excess food, you can package it for City Harvest. Contact the Food Sourcing Department at 646.412.0758 or fooddonations@cityharvest.org to get started. A staff member will be happy to meet with you to discuss options and to train your staff on our donation procedures.



CITY HARVEST QUICK REFERENCE

Minimum

City Harvest has a 100 pound minimum to schedule a pickup by one of our trucks. Pickups are generally made Monday through Friday, from 9:00 a.m. to 5:00 p.m. There are a limited number of trucks on the road past 5:00 p.m.

Yes! City Harvest can safely accept:

- **Whole fresh produce** without significant decay.
- **Chopped fresh produce** packed separately in food-grade packaging.
- **Prepared foods** chilled to 40°F that have not been served or placed on a buffet.
- **Chilled perishable packaged foods**, such as juice and cheese in original packaging.
- **Frozen meat, poultry and seafood.**
- **Dairy products** 40°F .
- **Shelled eggs.**
- **Frozen foods** in original packaging.
- **Baked goods** including day-old bread, bagels, and other bakery items.
- **Canned and packaged** items in original packaging.

No! City Harvest cannot accept:

- Items that have been **served or put on a buffet table.**
- Items that have been **previously reheated.**
- **Items that were not kept at the appropriate temperature** per the *City Harvest Donation Guidelines* for more than 2 hours.
- **Meat that is not fully frozen.**
- **Items with damaged or compromised packaging**, resulting in the loss of a sanitary barrier.
- Items that **contain alcohol.**
- Items with **significant decay.**
- Items with **severe freezer burn.**
- **Food intended for raw consumption** (sushi or seafood).
- Canned goods that are **open, punctured, bulging or seriously damaged.**
- **Home prepared, home canned or home jarred products.**
- **Food stored in opaque bags.**

Questions?





Call City Harvest at 646.412.0758 or email fooddonations@cityharvest.org

DONATION GUIDELINES






Thank you for helping to fill City Harvest's trucks with good food to distribute to New Yorkers in need.

We gratefully accept non-perishable donations, as well as perishable and prepared foods maintained in safe temperature zones and chilled or frozen before donation. Donated food must be prepared by a regulated or licensed food business, such as a restaurant, caterer, wholesaler, or bakery, and must exclude foods previously served to the public.

By following these guidelines, you will safely prepare, handle and provide delicious items that City Harvest can accept.

Food Product	Packaging	Storage Conditions	Unacceptable Conditions
Prepared Foods (entrees, starches, vegetables, chilled foods) 	<ul style="list-style-type: none"> Food-grade packaging in direct contact with food, securely closed and separated by food type to avoid cross-contamination Labeled and dated 	<ul style="list-style-type: none"> Chilled below 40°F or frozen 	<ul style="list-style-type: none"> Previously reheated foods Foods kept above 40°F for more than 2 hours Foods previously served Foods with a temperature greater than 40°F
Chilled Perishable Prepackaged Foods 	<ul style="list-style-type: none"> Original packaging or food-grade packaging for all repacked products 	<ul style="list-style-type: none"> Chilled below 40°F 	<ul style="list-style-type: none"> Foods kept above 40°F for more than 2 hours Damaged or compromised packaging, resulting in the loss of sanitary barrier protection
Meat and Poultry 	<ul style="list-style-type: none"> Original packaging Food-grade packaging in direct contact with food Securely closed and separated by food type (beef, pork, poultry, etc.) to avoid cross-contamination Labeled and dated as appropriate Must be processed in a USDA or NY State Department of Agriculture and Markets inspected facility 	<ul style="list-style-type: none"> Frozen at 0°F or less All meat and poultry must be frozen prior to or on the product expiration date 	<ul style="list-style-type: none"> Non-frozen meat and poultry Non-food-grade packaging in direct contact with food Unfrozen meat and poultry past the expiration date Meat not processed at a USDA or NY State Department of Agriculture and Markets inspected facility
Dairy Products 	<ul style="list-style-type: none"> Original packaging Food-grade packaging in direct contact with food 	<ul style="list-style-type: none"> Chilled below 40°F Cheese may be frozen Fluid milk can be accepted up to and including "use by" date 	<ul style="list-style-type: none"> Dairy products kept above 40°F for more than 2 hours Damaged or compromised packaging, resulting in the loss of sanitary barrier protection Leaking packaging

DONATION GUIDELINES CONTINUED

Food Product	Packaging	Storage Conditions	Unacceptable Conditions
Shelled Eggs 	<ul style="list-style-type: none"> Original packaging Food-grade packaging in direct contact with food 	<ul style="list-style-type: none"> Chilled below 40°F 	<ul style="list-style-type: none"> Damaged or compromised packaging, resulting in the loss of sanitary barrier protection Cracked or broken eggs
Fresh Produce (whole and chopped) 	<ul style="list-style-type: none"> Original cartons and bags or food-grade packaging for all repacked product City Harvest supplied bags 	<ul style="list-style-type: none"> Cool, dry, clean area Chilled at 40°F 	<ul style="list-style-type: none"> Significant decay
Frozen Foods (entrees, starches, vegetables, fruit juices, baked goods, meats, and seafood) 	<ul style="list-style-type: none"> Original packaging City Harvest supplied bags 	<ul style="list-style-type: none"> Frozen at 0°F or less 	<ul style="list-style-type: none"> Defrosted product Damaged or compromised packaging, resulting in the loss of sanitary barrier protection Severe freezer burn
Baked Goods (fresh or day-old bread, bagels, and other bakery items) 	<ul style="list-style-type: none"> Food-grade packaging in direct contact with food Securely closed bread products separately packaged from other baked foods City Harvest supplied bags 	<ul style="list-style-type: none"> Cool, dry, clean area 	<ul style="list-style-type: none"> Stale products Mold Damaged or compromised packaging, resulting in the loss of sanitary barrier protection Not packaged in food grade packaging Food in opaque bags
Prepackaged Foods-Nonperishable (canned, jarred, boxed) 	<ul style="list-style-type: none"> Original packaging, boxes or cases Food-grade packaging for all bulk foods Fully intact original cans with labels that must show at a minimum: <ul style="list-style-type: none"> - Contents - Ingredients - Net weight AND - Distributor 	<ul style="list-style-type: none"> Cool, dry, clean area 	<ul style="list-style-type: none"> Opened, punctured, bulging, or serious damage, including evidence of leakage, side-seam dent, top seam dent, and/or significant rust Home-canned or jarred products Glass is broken or chipped Break in seal identified by "popped button" indicator

FOOD SAFETY AND LIABILITY

At-a-Glance

Both the federal government and New York State have laws protecting donors from liability. To ensure the safety of the donation, we have a three step checking system.

- Donors are guided by City Harvest staff on all food safety requirements.
- City Harvest drivers evaluate the donation for food safety.
- Recipient agencies evaluate the donation for food safety.

Food donors are protected under the following laws

Federal Law: The Bill Emerson Good Samaritan Food Donation Act

New York State Law: Enacted 1981, Article 4-D, Section 71-2 71-Z Liability for canned, perishable food or farm products distributed free of charge

City Harvest recommends consulting legal counsel for detailed information.

City Harvest practices food safety

At City Harvest we take our responsibility to you and the people we serve very seriously. Donating food to City Harvest isn't only smart, it's safe.

- All of our drivers are trained to handle food safely.
- Our trucks are refrigerated to keep food at safe temperatures.
- We train all recipient agencies in safe food preparation and handling.
- Agency kitchens are evaluated for their food safety practices.
- City Harvest's staff includes registered dietitians and a professional chef who make food safety a paramount concern.





CITY HARVEST: GREEN SINCE 1982

About

City Harvest pioneered food rescue in 1982 and, this year, will collect 55 million pounds of excess food to help feed the nearly 1.4 million New Yorkers struggling to put meals on their tables. Through relationships with farms, grocers, restaurants, and manufacturers, City Harvest collects nutritious food that would otherwise go to waste and delivers it free of charge to 500 soup kitchens, food pantries and other community food programs across the five boroughs. In addition to helping meet the immediate need for food, City Harvest developed long-term *Healthy Neighborhoods* programs which partner with low-income communities to increase access to fresh produce and help residents shop for and cook nutritious, budget-conscious meals.

Green Fleet

City Harvest established the Green Fleet in 2008 to ensure that our food rescue and delivery operations are executed in the most environmentally responsible way possible. Since then, City Harvest has converted the fleet to consist of clean diesel, hybrid trucks and tractor-trailer.

Compost

City Harvest partners with Build it Green!NYC to compost the organic waste from our Long Island City Facility.

One Bin Program

The City Harvest Corporate office participates in the One Bin Program. All recyclable items are retrieved from our desk bins as well as the bins in the pantries and copy rooms. Our carting company separates and recovers recyclable elements from non-recyclable waste.

WasteWise Initiative

City Harvest has partnered with the Environmental Protection Agency's (EPA) WasteWise initiative: *Conserving Resources, Preventing Waste*.

Wastewise helps organizations and businesses apply sustainable materials management practices to reduce municipal and select industrial wastes.





FOOD SOURCING CONTACT LIST

Monday - Friday
9am - 5pm

Telephone: 646.412.0758

Email

fooddonations@cityharvest.org

fooddrives@cityharvest.org

Lisa Sposato
Director, Food Sourcing
646.412.0751
lsposato@cityharvest.org

Racine Droz
Associate Director, Food Sourcing & Donor Relations
646.412.0754
rdroz@cityharvest.org

Matt Lum
Manager, Food Sourcing & Donor Relations
646.412.0723
mlum@cityharvest.org

Ruth Kraus
Assistant Manager, Food Sourcing & Donor Relations
646.412.0755
rkraus@cityharvest.org

For assistance before 9am or after 5pm Monday - Friday,
Please contact a member of Customer Operations at 646.412.0850



2016 Changes to Food Donation Tax Incentives

The PATH ACT, passed by Congress December 18, 2015 includes several improvements to the tax incentives allowable for food donation:

1. **Making the extension to non C corporations permanent** & allowing non C Corporations to carry forward the deduction for 5 years (same as c corporations);
2. **Allowing** 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;
3. **Increasing** the 10% cap of allowable charitable contributions to 15% for donated food;
4. **Codifying** an important Tax Court ruling, *Lucky Stores, Inc. v. Commissioner of Internal Revenue*.

Tax Law prior to 2016: Permanence for C corporations only

- Enhanced tax deduction available for donations of fit and wholesome food inventory to qualified 501(c)3 nonprofit organizations serving the poor and needy (Internal Revenue Code 170e3)
- Qualified business taxpayers were able to deduct cost to produce the food and half the difference between the cost and full fair market value of food donated
- Non-C Corporations were allowed enhanced benefits on a temporary basis, subject to Congressional renewal every 2 years which had last expired December 2014.

What does this mean for donation partners?

- As of 2016, deductions now apply to C corporations and non C corporations permanently. Any donations made in 2015 by non C corporations are also eligible for the enhanced tax deduction.
 - This will greatly increase the ability of small and mid-size businesses to donate food (including farmers, retailers, restaurants and food manufacturers).
- NEW in 2016: Donors that use cash basis accounting can estimate their cost to produce the food and take the enhanced tax deduction.
 - This is particularly beneficial to farmers.
- NEW in 2016: Donors who are at the 10% cap on charitable contributions can now enjoy tax benefits for donated food up to 15% of their adjusted gross income.
 - This will be particularly beneficial to companies with low profitability.
- NEW in 2016: Donors have greater certainty in how they value the food donated on an on-going basis.

This last provision, the codification of the *Lucky Stores Inc. v. Commission of Internal Revenue*, is one of the most significant parts of the tax law for farmers, retailers and food service operators as well as manufacturing donors. The impact of the language differs by sector but it opens more opportunities for all.

The language from the Joint Committee on Taxation Technical Explanation states:

"Third, in the case of any contribution of apparently wholesome food which cannot or will not be sold solely by reason of internal standards of the taxpayer, lack of market, or similar circumstances, or by reason of being produced by the taxpayer exclusively for the purposes of transferring the food to an organization described in section 501(c)(3), the fair market value of such contribution shall be determined (1) without regard to such internal standards, such lack of market or similar circumstances, or such exclusive purpose, and (2) by taking into account the price at which the same or substantially the same food items (as to both type and quality) are sold by the taxpayer at the time of the contributions (or, if not so sold at such time, in the recent past)."

For more information on the legislation, please contact Carrie Calvert at ccalvert@feedingamerica.org.

In everyday language, the law outlines:

- A protocol for establishing a Fair Market Value (FMV) for products that are not sold in market. FMV is key to the calculation necessary to calculate tax benefits based on IRS tax code (see below).
- That donations that cannot or will not be sold because the product is out of specification or overproduced, can be valued at the same price as other similar food items sold by the taxpayer at the time of the contributions (or in the recent past).
- A specific protocol for valuing product in circumstances, where FMV is not currently easily valued so companies are able to benefit from the enhanced tax deduction, potentially offsetting incremental costs to donate:
 - Products produced directly for donation, perhaps to utilize excess ingredients or line time
 - Products that are off spec and currently landfilled or sold for animal feed vs donation
 - Bulk product currently going to animal feed or left in field may be packaged in consumer-friendly packs
 - Relabeled product with missing allergens on the label currently going to landfill

How does this impact donations?

Farmers

- Provides a protocol not previously available which establishes a Fair Market Value (FMV) of product donated from the farm or packing sheds by utilizing the selling price of goods moved to market
- Expands applicability of the tax benefits to all farmers and producers and by making it permanent allows farmers to incorporate donation as a regular part of their crop planning, either grown to donate or as an outlet for unmarketable product.

Manufacturers

- Previous legislation placed the burden of establishing the FMV for a donated product on the producer based on a selling price to a customer
- In the case of off spec product or a variation in packaging, size, or formulation variation an established selling price (FMV) wasn't available, negating the producer's ability to calculate enhanced tax benefits
- New law allows for a similar or past item to be used in establishing a FMV for manufacturers
- By establishing a protocol for enhanced tax benefits, this provision now compensates the company in a small way if there needs to be an investment in packaging or labeling to insure the product is able to be distributed

Retailers/Food Service outlets

- It expands the Lucky Store case nationally and establishes that no matter what the age of the product being donated, that the FMV is the same as the original selling pricing of fresh product
- Permanence of this provision allows grocery and food service retailers to invest in permanent donation processes with long term commitments and impact, assured of on-going tax benefits, again partially offsetting any investment required

Sample Enhanced Benefit Calculation:

The sum of one-half of the unrealized appreciation (fair market value minus cost of goods sold = appreciation) plus the taxpayer's cost, but not in excess of twice the cost of the contributed property.

Example:

Selling Price (FMV)	\$2.00
Cost of Goods Sold	\$1.00
Gross Profit	\$1.00

Previous tax benefit for non C corporations: \$1.00 (COGS) = business loss x applicable tax rate

New tax benefit for C and non C Corps **\$1.00 + .50 = \$1.50 (1/2 the difference between FMV and COGS)**

NOTE: The maximum deduction can never exceed 2 x COGS

For more information on the legislation, please contact Carrie Calvert at ccalvert@feedingamerica.org.



Federal Tax Incentives for Produce Donations

Expanded Tax Law as of 2016

- Enhanced tax deduction available for donations of fit and wholesome food inventory to qualified 501(c)3 nonprofit organizations serving the poor and needy (Internal Revenue Code 170e3).
- Qualified business taxpayers can deduct cost to produce the food and half the difference between the cost and full fair market value of food donated.
- Deductions apply to C corporations AND non c corporations as of 2016 with new procedures for growers that are cash basis.
- By expanding applicability of the tax benefits to all farmers and producers and by making it permanent it allows farmers to incorporate donation as a regular part of their crop planning, either grown to donate or as an outlet for unmarketable product.
- Provides a protocol not previously available which establishes a Fair Market Value (FMV) of product donated from the farm or packing sheds by utilizing the selling price of goods moved to market.

Special Consideration for Produce Growers

Farmers that use the cash basis method of accounting must use a different way to calculate the enhanced tax deduction.

- Cash balance = recognizes income when cash is received and expenses when cash is paid;
- Farmers prefer cash balance because it does not require the cost of an accountant like the accrual method and is more flexible for tax planning.
- Accrual method = recognizes income when it is earned (accounts receivable) and expenses when they are incurred (accounts payable)
- Because farmers using cash basis are not tracking cost for specific items closely enough, they must use 25% of the Fair Market Value to calculate their cost and then calculate the enhanced tax deduction.

Liability Protection

The Bill Emerson Good Samaritan Food Donation Act was created to encourage the donation of food and grocery products to 501(c)3 certified nonprofit organizations. Under this Act, as long as the donor has not acted with negligence or intentional misconduct, the company is not liable for damage incurred as the result of illness.





Federal Tax Incentives for Produce Donations

Sample Accrual Accounting Calculation

Your company may take the sum of one-half of the unrealized appreciation (market value minus cost = appreciation) plus the taxpayer's cost, but not in excess of twice the cost of the contributed property.

Example of Zero Cost Donation:

Market Value	\$10.00
Cost to Produce (Estimating a KNOWN cost)	\$ 3.50
Gross Profit equals	\$ 6.50
One-half of \$6.50 equals	\$3.25
The maximum deduction can never exceed 2x cost (\$3.50x2).	
Therefore, gross profit is limited to	\$ 7.00
Total charitable deductions:	\$ 6.75 (doesn't exceed 2x Cost)

Sample Cash Basis Accounting Calculation

Sample Enhanced Benefit Calculation:

The sum of one-half of the unrealized appreciation (fair market value minus cost of goods sold = appreciation) plus the taxpayer's cost, but not in excess of twice the cost of the contributed property. If cost is unknown, taxpayer can use 25% of FMV to calculate it.

Example:

Selling Price (FMV)	\$10.00
Cost of Goods Sold (25% of FMV)	\$ 2.50
Gross Profit	\$ 7.50

Previous tax benefit: None

New tax benefit for all cash basis donors:

- $\$3.75 + \$2.50 = \$6.25$ (1/2 the difference between FMV and COGS + COGS)

NOTE: The maximum deduction can never exceed 2 x COGS. So the \$6.25 donation is adjusted down to \$5.00 (2x COGS).



Good Samaritan Laws

Federal and New York State Laws to Address Food Donation

The Bill Emerson Food Donation Act

PUBLIC LAW 104-210—OCT. 1, 1996

110 STAT. 3011

104th Congress

An Act

To encourage the donation of food and grocery products to nonprofit organizations for distribution to needy individuals by giving the Model Good Samaritan Food Donation Act the full force and effect of law.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. CONVERSION TO PERMANENT LAW OF MODEL GOOD SAMARITAN FOOD DONATION ACT AND TRANSFER OF THAT ACT TO CHILD NUTRITION ACT OF 1966.

(a) Conversion to Permanent Law. — Title IV of the National and Community Service Act of 1990 is amended —

1. by striking the title heading and sections 401 and 403 (42 U.S.C. 12671 and 12673); and

2. in section 402 (42 U.S.C. 12672) —

(A) in the section heading, by striking “model” and inserting “bill emerson”

(B) in subsection (a), by striking “Good Samaritan” and inserting “Bill Emerson Good Samaritan.”

(C) in subsection (b)(7), to read as follows:

“(7) GROSS NEGLIGENCE. — The term ‘gross negligence’ means voluntary and conscious conduct (including a failure to act) by a person who, at the time of the conduct, knew that the conduct was likely to be harmful to the health or well-being of another person.”;

(D) by striking subsection (c) and inserting the following:

“(c) LIABILITY FOR DAMAGES FROM DONATED FOOD AND GROCERY PRODUCTS.

“(1) LIABILITY OF PERSON OR GLEANER. — A person or gleaner shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to needy individuals.

“(2) LIABILITY OF NONPROFIT ORGANIZATION. — A nonprofit organization shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the nonprofit organization received as a donation in good faith from a person or gleaner for ultimate distribution to needy individuals.

“(3) EXCEPTION. — Paragraphs (1) and (2) shall not apply to an injury to or death of an ultimate user or recipient of the food or grocery product that results from an act or omission of the person, gleaner or nonprofit organization, as applicable, constituting gross negligence or intentional misconduct.”; and

(E) in subsection (f), by adding at the end the following: “Nothing in this section shall be construed to supersede State or local health regulations.”.

(b) TRANSFER TO CHILD NUTRITION ACT OF 1966. — Section 402 of the National and Community Service Act of 1990 (42 U.S.C. 12762) (as amended by subsection (a))

1. is transferred from the National and Community Service Act of 1990 to the Child Nutrition Act of 1966;

2. is redesignated as section 22 of the Child Nutrition Act of 1966; and

3. is added at the end of such Act.

(c) CONFORMING AMENDMENT. — The table of contents for the National and Community Service Act of 1990 is amended by striking the items relating to title IV.

Approved October 1, 1996.

New York State Law

Enacted 1981, Article 4-D, Section 71-2

71-Z Liability for canned, perishable food or farm products distributed free of charge

1. Notwithstanding any other provision of law, a good faith donor of any canned or perishable food or farm product, apparently for human consumption, to a bona fide charitable or nonprofit organization, for free distribution shall not be subject to criminal penalty or civil damages arising from the condition of the food, if the said donor reasonably inspects the food at the time of donation and finds the food apparently for human consumption and unless the donor has actual or constructive knowledge that the food is adulterated, tainted, contaminated or harmful to the health or well-being of the person consuming said food.
2. The second section includes the good faith donation of canned or perishable food or farm products not readily marketable due to appearance, freshness, grade, surplus or other consideration, but shall not be deemed or construed to restrict the authority of any lawful agency to otherwise regulate or ban the use of such food for human consumption.