

112TH CONGRESS  
1ST SESSION

# S. 166

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

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## IN THE SENATE OF THE UNITED STATES

JANUARY 25 (legislative day, JANUARY 5), 2011

Mr. LUGAR (for himself and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Finance

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## 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 2011”.

6       **SEC. 2. PERMANENT EXTENSION AND EXPANSION OF CHAR-**  
7                               **ITABLE DEDUCTION FOR CONTRIBUTIONS OF**  
8                               **FOOD INVENTORY.**

9       (a) IN GENERAL.—Subparagraph (C) of section  
10       170(e)(3) of the Internal Revenue Code of 1986 (relating

1 to special rule for certain contributions of inventory and  
2 other property) is amended to read as follows:

3                   “(C) SPECIAL RULE FOR CONTRIBUTIONS  
4                   OF FOOD INVENTORY.—

5                   “(i) GENERAL RULE.—In the case of  
6                   a charitable contribution of food from any  
7                   trade or business of the taxpayer, this  
8                   paragraph shall be applied—

9                   “(I) without regard to whether  
10                   the contribution is made by a C cor-  
11                   poration, and

12                   “(II) only to food that is appar-  
13                   ently wholesome food.

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

22                   “(iii) DETERMINATION OF BASIS.—If  
23                   a taxpayer—

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

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

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

20                         “(I) without regard to such inter-  
21                         nal standards, such lack of market,  
22                         such circumstances, or such exclusive  
23                         purpose, and

24                         “(II) by taking into account the  
25                         price at which the same or substan-

1 tially the same food items (as to both  
2 type and quality) are sold by the tax-  
3 payer at the time of the contribution  
4 (or, if not so sold at such time, in the  
5 recent past).

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

15 (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to contributions made after the  
17 date of the enactment of this Act, in taxable years ending  
18 after such date.

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