HOUSE DOCKET, NO. 644 FILED ON: 1/26/2021

HOUSE . . . . . No. 3060

The Commonwealth of Massachusetts

PRESENTED BY:

Paul A. Schmid, III

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to provide a tax deduction for charitable donations of food by farmers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Paul A. Schmid, III	*8th Bristol*	*1/26/2021*
Alan Silvia	*7th Bristol*	*2/9/2021*
Steven S. Howitt	*4th Bristol*	*2/25/2021*
Susan L. Moran	*Plymouth and Barnstable*	*2/25/2021*
Christopher Hendricks	*11th Bristol*	*2/25/2021*
Brian W. Murray	*10th Worcester*	*2/25/2021*
David F. DeCoste	*5th Plymouth*	*2/25/2021*
Mathew J. Muratore	*1st Plymouth*	*3/5/2021*
Susan Williams Gifford	*2nd Plymouth*	*3/5/2021*
Paul McMurtry	*11th Norfolk*	*3/5/2021*
Kimberly N. Ferguson	*1st Worcester*	*3/5/2021*
James K. Hawkins	*2nd Bristol*	*3/5/2021*
Antonio F. D. Cabral	*13th Bristol*	*3/5/2021*
Norman J. Orrall	*12th Bristol*	*3/5/2021*
Bradley H. Jones, Jr.	*20th Middlesex*	*3/11/2021*
Elizabeth A. Malia	*11th Suffolk*	*3/16/2021*
Hannah Kane	*11th Worcester*	*3/16/2021*
Joan B. Lovely	*Second Essex*	*3/19/2021*

Kip A. Diggs	*2nd Barnstable*	*4/8/2021*
Tricia Farley-Bouvier	*3rd Berkshire*	*10/26/2021*

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HOUSE . . . . . No. 3060

By Mr. Schmid of Westport, a petition (accompanied by bill, House, No. 3060) of Paul A. Schmid, III and others for legislation to establish a tax deduction for charitable donations of food by certain farmers. Revenue.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *2630* OF 2019-2020.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act to provide a tax deduction for charitable donations of food by farmers.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 3 of Chapter 62 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after subparagraph (13), the following subparagraph:

(13A) In the case where the taxpayer is engaged in the trade or business of farming in the commonwealth, as defined in section 1A of chapter 128, and makes a charitable contribution of food from such farm trade or business, a charitable contribution deduction shall be allowed to the taxpayer under subparagraph (13); notwithstanding, the deductibility limitation based on the prior year's tax rate on Part B taxable income under said subparagraph. Subject to the provisions of this subparagraph, the requirements, conditions and limitations, for charitable deductions for

contributions of food inventory under section 170(e) of the Code, as amended, shall apply to determine the amount of the allowed deduction.

For the limited purpose of determining the amount of the allowable deduction for any charitable contribution of food, the taxpayer may elect an alternate cost basis for such contributed food, equal to 25 per cent of the food's fair market value, regardless of whether the taxpayer is required to account for inventories or capitalize indirect costs under the Code.

A food contribution shall not qualify for an allowable deduction under this subparagraph, unless in addition to such other requirements: (i) the contributed food complies with the applicable quality and labelling standards of "apparently wholesome food" as defined under 42 U.S.C. 1791(b)(2), of the Bill Emerson Good Samaritan Food Donation Act, in effect when this subparagraph was enacted; and, (ii) the donee that accepts the contributed food from the taxpayer, is a charitable organization located in the commonwealth that is exempt from federal taxes under section 501(3)(c) of the Code, other than a private foundation, and that regularly receives and distributes contributed food of any type, for the care of individuals who are ill, needy, or infants in Massachusetts.

SECTION 2. Chapter 63 of the General Laws is hereby amended by inserting after section 38FF, the following section:

Section 38GG. In determining the net income subject to tax under this chapter a corporation for profit engaged in the trade or business of farming in the commonwealth, as defined in section 1A of chapter 128, shall be allowed a deduction for charitable contributions of food by the corporation to a charitable organization. The term "charitable organization" for the purposes of this section, shall mean an organization exempt from federal taxes under section

501(3)(c) of the Code, excluding private foundations, that is located in the commonwealth and regularly receives and distributes contributed food in any form, for the care of individuals who are ill, needy, or infants in Massachusetts.

Subject to the provisions of this section, the requirements, conditions and limitations, applicable to charitable deductions for contributions of food inventory under section 170 of the Code, shall apply to determine the amount of the allowed deduction.

For the limited purpose of determining the amount of the allowable deduction for any charitable contribution of food, the corporation may elect an alternate cost basis for such contributed food, equal to 25 per cent of the food's fair market value, regardless of whether the corporation is required to account for inventories or capitalize indirect costs under the Code.

A food contribution shall not qualify for an allowable deduction under this section, unless, in addition to such other requirements, the contributed food complies with the applicable quality and labelling standards of "apparently wholesome food" as defined under 42 U.S.C. 1791(b)(2), of the Bill Emerson Good Samaritan Food Donation Act, in effect when this section was enacted.

The allowed deduction under this section shall be in addition to other deductions allowable for corporations for profit under this chapter.

SECTION 3. Sections 1 and 2 shall be effective for tax years beginning on or after, January 1, 2021.