Comments Submitted by Feeding America

To the Senate Finance Committee

Individual Income Tax Working Group
Business Income Tax Working Group
April 15, 2015

Thank you for the opportunity to submit this statement for the record on behalf of Feeding America. We look forward to the Senate Finance Committee's examination of tax reform and the role charitable giving incentives such as the charitable tax deduction and the food donation tax deduction play in encouraging monetary and in-kind donations to the nation's nonprofit organizations.

Feeding America is the nation's leading domestic hunger-relief charity and our national network of more than 200 food banks reaches every state, serving over 60,000 local food assistance agencies, more than half of which are faith-based. Feeding America food banks as well as food assistance agencies rely on a variety of public and private funding streams to feed 46.5 million Americans a year, including 12 million children and nearly 7 million seniors.

During the worst economic downturn since the Great Depression, the number of American families struggling to make ends meet increased significantly. Though our economy has begun to recover, Feeding America food banks are still seeing record demand. Too many families across our nation are still struggling to put food on the table, with many of the families that are food insecure working yet unable to make ends meet. Feeding America client households struggle to secure adequate employment.

According to Feeding America's Hunger in America 2014 report, while 54% of households were employed in the past year, more than half of these households report that the longest-employed person worked part-time, suggesting significant limitations in the household's earning. Clients are also forced to make difficult tradeoffs, with 69% reporting they need to choose between food and utilities, 67% reporting they need to choose between food and transportation, 65% reporting they need to choose between food and medical care, and 57% reporting they need to choose between food and housing.

The food distributed by Feeding America and the programs our food banks run in local communities not only provides immediate relief for struggling families, children and seniors, it also provides a solid return on taxpayer investments and provides support to farmers and the agriculture industry through the purchase of agriculture commodities by USDA.

Feeding America network members utilize local and national public private partnerships to maximize the impact of government commodities and provide the most complete and nutritious food packages available. In FY2014 we moved 3.9 billion pounds of food through our nationwide network, which provided 3.3 billion meals to those in need, yet we still fell short of meeting demand. Of the food distributed by our network, 54% comes from food donated by food manufacturing and retail sectors, 20% from federal commodities like TEFAP, 15.3% from fresh produce, and 14% from purchased food. As demand has increased and other food streams have declined, food banks have to increase the amount of food they are purchasing. Tax policy that provides incentives for donation of funds and food is critical to the ability of our food banks and other emergency food providers to meet the need in their communities and to increase the amount of food donated from farmers, retailers, food manufacturers and restaurants.

Since the Revenue Act of 1917 first created the charitable income tax deduction, our nation's tax system has strongly encouraged Americans to give back to their communities by providing tax deductions for contributions to charitable organizations. Charitable donations remain a significant source of funding for Feeding America and other nonprofits nationwide, a donation stream that is challenged by declines in giving over the last few years. The charitable tax deduction is unique among federal tax deductions in that it encourages tax decisions to strengthen communities, not to provide benefit to individual taxpayers. It also plays an important role in donor behavior; while the majority of donors report donating funds to make a difference, tax incentives play a role in how often and how much these donors continue to donate. The power of the incentive is illustrated by the timing of many charitable gifts, with more than 20 percent of all annual online charitable donations made on December 30th and 31st.

Any changes to charitable giving incentives that would further reduce charitable giving would have a detrimental impact on the ability of Feeding America and our network members to feed millions of struggling Americans. Federal tax incentives to encourage charitable donations help Feeding America raise the funds to address the shortfall in food to meet increased need among struggling Americans. In FY2014, 2.65 million individual donors gave $472 million to food banks across the Feeding America network. This represents 53 percent of all funds given to our food banks. Feeding America urges the Senate Finance Committee to reject any changes to charitable giving incentives that would result in less food and funds donated to the Feeding America network.

Along with the charitable giving tax deduction, the food donation tax deduction (Internal Revenue Code Section 170 e3) is a critical tool for Feeding America network members to source donated food from restaurants, retailers, farmers and manufacturers. The deduction provides an incentive for businesses to donate fit and wholesome food inventory to a 501c3 organization serving the poor and needy. The deduction seeks to capture food that would otherwise be wasted by providing an incremental tax deduction over the cost of goods sold if the food is donated to a 501c3. Without Section 170e3, there is little incentive for a business to donate the food verses dumping the food inventory in question and in many cases it would be less expensive for the business to dump than donate the food.

Since the inception of the food donation tax deduction in 1976, the provision was available to C corporation taxpayers only. While this provision has had a powerful impact on food donations and continues to do so, it leaves out significant segments of the food industry, including farmers and growers that are not eligible for the incentive, along with small businesses like restaurant and retailers. In 2006, as part of the Pension Protection Act, Congress enacted a two year provision expanding the food donation tax deduction to include all business taxpayers as eligible donors, not just C corporations. This temporary provision has been consistently extended, yet the last minute and retroactive nature of the renewals means that the provision could provide a greater incentive to encourage food donations if it were made permanent. It provides non C corporations like pass-through entities (Subchapter S corporations, limited liability companies) the ability to take the same enhanced deduction for the contribution of food inventory as C corporations. The temporary nature of this deduction is a disincentive to small businesses that want to establish or expand a food donation program. It should not cost a business more to donate excess food than it does to landfill it, yet that is the exact situation that small businesses and farmers face each day.

The impact of food donation giving incentives cannot be understated – it plays a significant role in the 2.3 billion pounds of excess food donated to Feeding America each year. Without federal tax incentives, much of this excess food would not be donated through the Feeding America network to those in need. Yet we know this impact could be greater if the food donation tax deduction were improved. Over 95% of farms in America are family owned, and today are not able to take the food donation tax deduction when donating food. Distributing more fresh produce to our 46.5 million clients is a key strategic priority of the Feeding America network, with 900 million pounds of fresh produce distributed to clients in 2014. As we see clients report that 58% of households have a member with high blood pressure and 33% of households have a member with diabetes, we know that nutritious food like fresh produce and lean protein sources like meat and dairy has a key role to play in reducing diet related diseases among our clients. We will not be able to reach our goals to distribute more fresh produce without changes to federal tax incentives.

Feeding America strongly believes enactment of the America Gives More Act (H.R. 644) (also introduced as S. 930, the Good Samaritan Hunger Relief Tax Incentive Act) would help encourage increased donations of excess food inventory across the food industry spectrum. The legislation would make permanent the temporary provision allowing all qualified business taxpayers (including farmers, retailers, restaurants and food manufacturers) to take a heightened charitable tax deduction for donations of fit and wholesome food to non-profit charitable organizations that serve the needy.

Feeding America has seen a significant increase in the amount of food donations from non C corporations such as restaurants, retailers, and farmers since the temporary provision was enacted in 2006. According to data collected by Food Donation Connection, donations from non C corporation restaurants have increased 137% since the 2006 expansion of the enhanced tax deduction to include all business donors. However, the temporary nature of this provision makes it very difficult for small businesses to incorporate food donations into a long term business plan and reduces the amount of businesses willing to donate food.

The legislation would also allow 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. Current law does not accommodate the accounting choices that most farmers organized as sole proprietors use and prevents farmers that are sole proprietors from taking the tax deduction. The legislation would codify an important Tax Court ruling, *Lucky Stores, Inc. v. Commissioner of Internal Revenue*, in which the Court upheld the right of the taxpayer to determine a reasonable fair market value of donated food rather than the IRS and also increase the cap on allowable charitable contributions from 10% to 15% for food inventory donations only. We strongly believe these changes to the food donation tax deduction would result in increased donations of nutritious food at a time when they are desperately needed. With over 70 billion pounds of nutritious excess food wasted each year, we cannot afford to wait to pass this common sense legislation.

We greatly appreciate the opportunity to submit testimony to the Individual and Corporate Income Tax Working Groups on behalf of Feeding America, our 200 member food banks and the 46.5 million Americans we feed each year. Maintaining the ability of food banks and other nonprofits to continue to serve their clients and provide help to millions of Americans has never been more important. Protecting the charitable giving tax deduction and expanding food donation tax incentives provides the right approach to address the staggering need we are seeing nationwide. The America Gives More Act, along with other charitable giving tax incentives, would provide strong incentives to capture millions of pounds of nutritious food currently going to waste while giving small business owners fair and equitable access to the food donation giving incentives C corporations have had for decades. We hope to work with you throughout this Congress to make sure these issues are addressed.

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