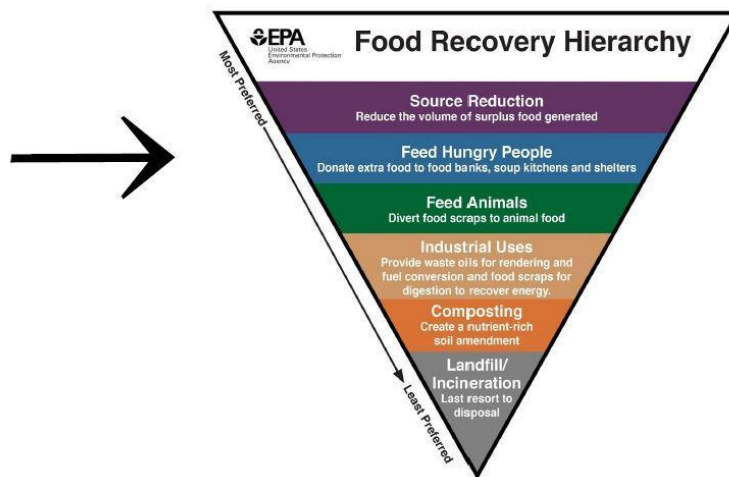




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Center for Sustainability Solutions

Maine Food Donation Tool Kit

This UMaine/Mitchell Center **tool kit** has been created to help Maine businesses, organizations and individuals understand **WHY** and **HOW** to donate food instead of throwing it away. In Maine, unclear and confusing laws lead to unnecessary food waste, adding up to 7 million lbs of food annually wasted within K-12 Maine school systems alone, all while 1 in 7 Maine households struggle with food insecurity. 40% of food in the United States is thrown away. Organizations throw food away because they do not know what safety rules apply to donation or because they cannot access tax deductions to cover the cost of transporting such food. We created this tool kit to break down the procedures and best practices in order to get started.



Step 1: Getting Started

Why Should I Start a Food Donation Program?

1. Help Build Health and Safety of Your Community

Events such as the COVID-19 pandemic proves food donation is more important than ever and Mainers need to stand together now, and in the future to support one another. Emergency food assistance institutions, such as food banks are facing an increasing demand for their food and services.

Unfortunately, today Maine wastes nearly 1/3 of the food we produce - imagine taking \$100.00 out of your ATM and tossing \$30 of it in the trash!

At the same time, Maine has the highest level of food insecurity in New England where nearly 14% of Maine households and 1 in 5 Maine children are food insecure.

Donating food has the potential to recover millions of meals for those that go hungry every single day.

Lots of people don't know what food insecurity looks like, and they may not realize that families struggle even with the little help from food pantries they can get, and many aren't receiving the healthy and nutritious food items necessary to nourish their family.

2. Save Money

Food has value and should never be wasted.

There are valuable tax benefits available if you choose to donate your excess food. Tax credits and deductions are available that will lower your taxes all while you provide meals for those in need.

You could responsibly get rid of excess food and save money doing it! Foods not eligible still have valuable nutrients that can enrich Maine's soil as compost!

3. Protect Maine's Natural Resources

Donating food keeps food out of Maine's landfills where decomposing food generates methane gas - one of the most potent greenhouse gases causing climate change.

In addition, food in landfills leads to liquid leachate that can contaminate our water systems. Restoring nutrients to the soil will help keep Maine's agriculture strong! 21% of water that's used to grow our food is wasted due to the amount of food we throw away each year.

Food Production in the U.S. uses 15.7% of the total energy budget, 50% of all land and 80% of freshwater consumed yet 20 billion pounds of produce is lost on farms each year. (Foodprint)

What Types of Food Can Be Donated to Feed People?

Most types of food can be donated. It is important to remember that when donating food, the intention is always **human consumption** and needs to be handled accordingly. However, if the food is spoiled or inedible, composting is always an option. If it looks or smells bad, compost it! If the food visibly looks edible, does not smell rotten, and it is in a wrapper or packaging of some sort, it can be donated even if the item is past its "sell by" or "use by" date. Produce with a little bruising or approaching the date label is still healthy and nutritious and can still be used to feed those in need. Grants can be accessed to cover repackaging and transportation costs for food donations. Every pantry differs on what items they accept or deny, if you have questions just call the pantry or contact myself at craytonh@thomas.edu.

Foods to donate:

- ✓ Milk/cheese
- ✓ Yogurt and other dairy products
- ✓ Eggs/Butter
- ✓ Juice
- ✓ Bologna, pepperoni, and other deli meats
- ✓ Fruits and Vegetables (even bruised ones)
- ✓ Flour, Sugar, other baking ingredients
- ✓ Breads both prepackaged and bakery made

- ✓ Baked Goods (if properly labeled and made in established facility i.e. bakery)
- ✓ Untouched prepared food trays (if it has not previously been served to customers)
- ✓ Premade meals from grocery stores
- ✓ Other canned or nonperishable items

How to Donate Your Food Safely and with Liability Protections in Maine

How to Donate Food Safely?

The Bill Emerson Good Samaritan Food Donation Act (The Emerson Act:1996) encourages food donations by providing liability protections for businesses that donate ‘apparently wholesome’ food in ‘good faith’ to nonprofit organizations.

- ✓ covers individuals, businesses, nonprofits, as well as gleaners (pickers) so long as they donate wholesome types of food in good faith.
- ✓ Protection does not apply to gross negligence, recklessness, or intentional misconduct.
- ✓ Donated food must be distributed to final recipients for free in order for protections to apply. Donated food must comply with all federal, state, and local quality and labeling standards even when such standards are not linked to safety risks.

How Does Maine Protect Food Donors?

The state of Maine holds state authority in which they have the right to enact laws that are more protective of donors than the Federal Emerson Act, the ground zero of liability protection.

Maine law states that good faith donators of food to a charitable or nonprofit organization as well as any volunteer or employee from that organization are protected from civil liability (Me. Rev. Stat. Ann. tit. 14, § 166(2)-(3), (5)(West 2017)).

It's important to note, **no one to this date has ever been prosecuted in the state of Maine over food donations.**

Maine state law requires date labels only on shellfish, though Maine does not restrict the donation or sale of past-date shellfish products or any other food products.

There are currently no federal laws regulating date labeling on food items.

Step 3: How to Find Your Local Maine Feeding Organization Partners

How to find Food Donation Partners?

In looking for your feeding organization partner, contact your local food council or any of the organizations below:

Other specific places to look to donate to are:

- [Food Pantries](#)- Find your nearest food donation center
- [Wayside Food Programs](#)- Sort by donation day of the week in Maine
- [EcoMaine](#)-Nonprofit in Waste Diversion
- [Food Rescue MAINE](#) (launching in Lincoln/Knox Counties 2021)
- [Maine Feeding Partners Spreadsheet](#)
- **If you have any problems finding a food pantry partner, feel free to contact myself at 19hcrayton@gmail.com or my supervisor at susanne.lee@maine.edu and we'll match your business with a local food pantry in your area!**

Step 4: How to Receive Federal Food Donation Tax Benefits

Who is Eligible?

U.S. taxpayers can receive tax deductions (a reduction of the taxpayer's taxable income). With the passage of the Protecting Americans from Tax Hikes (PATH) Act in December 2015, all businesses are eligible for an enhanced tax deduction for donations that meet certain eligibility criteria. If the donated food does not meet the criteria, they can still claim a general tax deduction in the amount of the property's basis. This act includes:

- ✓ C-corporations (When donating surplus food to 501(c)3 nonprofits, Section 170(e)(3) of the U.S. Tax Code stipulates a C-corporation's charitable deduction can exceed 10% of its taxable income, only when the corporation has donated food, in which case it can increase its deduction to up to 15%.)
- ✓ S-corporations

- ✓ Limited Liability Corporations (LLCs)
- ✓ Partnerships
- ✓ Sole Proprietorships

What Tax Benefits Are Available for Food Donation?

Tax incentives make food donation more cost effective for donors as well as more economically beneficial in the long run. At the federal level there are currently two tax deductions available for food donations and the state of Maine does not currently have any additional tax benefits for such food donations:

:

1. **General Deduction-** donation must be used for charitable purposes and given to a qualified organization as laid out under section 170 of the Internal Revenue Code and still may be obtained if a business is ineligible for enhanced deduction.
2. **Enhanced Deduction-** provides a significantly higher financial benefit allowing businesses to deduct a value for donated food that is almost twice the general deduction, **when said food meets eligibility criteria.**

For a business to be eligible for enhanced tax deduction they must meet **four main requirements:**

- ✓ The donation organization must donate food to qualified non-profit organizations that use the food solely for the purpose of feeding the ill, needy, or infants.
- ✓ The recipient organization may not use or sell the food for money, property, or services. The exception is if the recipient organization charges another organization a small or nominal amount.
- ✓ The recipient must provide a written statement to the donor stating that all requirements of IRS 170(e)(3) have been met. (receipt tax form covers this)
- ✓ The donated food must be in compliance with the Food, Drug, and Cosmetic Act (FDCA) at the time the donation is made, as well as for 180 days before the contribution. (not moldy, donated in good faith, etc.)

How to Estimate Your Potential Food Donation Tax Benefit?

Calculators

There are a number of calculators that exist to assist in calculating tax deductions including:

1. Example: Calculating the Enhanced Deduction A grocery store donated potatoes with a fair market value of \$100.

The basis value of these potatoes was \$30.

The expected profit margin is the fair market value minus the basis value (\$100 - \$30), which is \$70.

Under the enhanced deduction, the grocery store is eligible to deduct the smaller of:

1. Basis value x 2 = $\$30 \times 2 = \60

Or

2. Basis value + (expected profit margin/2) = $\$30 + (70/2) = \65

The enhanced deduction would be \$60.

The enhanced deduction is substantially higher than the general deduction, which is limited to the basis value of \$30.

For Farmers: Not Having to Account for Inventory

To make it easy for people who do not have to account for inventories, they can elect to treat the basis of any “apparently wholesome food” as being equal to 25% of the fair market value of the food.

Apples are around \$15 per bushel depending on the type of apple, so if Farmer Joe donates 10 bushels of apples that have a fair market value altogether as \$150.

This means Farmer Joe can receive a tax deduction of \$37.50 for his apples.

Maine State Official Tax Credit Information:

According to The Maine Revenue Service charitable deductions are allowable for Maine tax purposes to the extent reflected in federal adjusted gross income or in federal taxable income for taxable corporations, trusts, and estates.

Step 5: Additional Maine Food Donation Benefits

Decrease Waste Hauling Costs

Food waste is a heavy part of the waste stream (about 30% in Maine) so if you pay for waste hauling you could save money by donating/giving away that food.

We encourage you to calculate and discuss savings with your waste hauler.

Increase Community Engagement

In the future stickers will be available for the windows of businesses participating in this food donation system to help their local community. This badge of honor could make a difference to customers and may encourage the community to support your business! Local newspapers are also usually open to running small columns about your participation in the program to further advertise your new business decision. This will also further incentives for local food drives and help support the cause if the community knows the money/donations are going to help local people in their own community. Grant funds are available for this type of advertising as well.

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