

108TH CONGRESS
1ST SESSION

H. R. 543

To amend the Internal Revenue Code of 1986 to provide special rules for determining the amount allowed as a deduction for a charitable contribution of apparently wholesome food which is inventory.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2003

Mr. BAKER introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide special rules for determining the amount allowed as a deduction for a charitable contribution of apparently wholesome food which is 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. CHARITABLE DEDUCTION FOR CONTRIBU-**
4 **TIONS OF FOOD INVENTORIES.**

5 (a) IN GENERAL.—Subsection (e) of section 170 of
6 the Internal Revenue Code of 1986 (relating to certain
7 contributions of ordinary income and capital gain prop-

erty) is amended by adding at the end the following new paragraph:

“(7) APPLICATION OF PARAGRAPH (3) TO CERTAIN CONTRIBUTIONS OF FOOD INVENTORY.—For purposes of this section—

“(A) EXTENSION TO INDIVIDUALS.—In the case of a charitable contribution of apparently wholesome food—

“(i) paragraph (3)(A) shall be applied without regard to whether the contribution is made by a C corporation, and

“(ii) in the case of a taxpayer other than a C corporation, the aggregate amount of such contributions from any trade or business (or interest therein) of the taxpayer for any taxable year which may be taken into account under this section shall not exceed 10 percent of the taxpayer’s net income from any such trade or business, computed without regard to this section, for such taxable year.

“(B) LIMITATION ON REDUCTION.—In the case of a charitable contribution of apparently wholesome food, notwithstanding paragraph (3)(B), the amount of the reduction determined

1 under paragraph (1)(A) shall not exceed the
2 amount by which the fair market value of such
3 property exceeds twice the basis of such prop-
4 erty.

5 “(C) DETERMINATION OF BASIS.—If a
6 taxpayer—

7 “(i) does not account for inventories
8 under section 471, and

9 “(ii) is not required to capitalize indi-
10 rect costs under section 263A,

11 the taxpayer may elect, solely for purposes of
12 paragraph (3)(B), to treat the basis of any ap-
13 parently wholesome food as being equal to 25
14 percent of the fair market value of such food.

15 “(D) DETERMINATION OF FAIR MARKET
16 VALUE.—In the case of a charitable contribu-
17 tion of apparently wholesome food which is a
18 qualified contribution (within the meaning of
19 paragraph (3), as modified by subparagraph
20 (A) of this paragraph) and which, solely by rea-
21 son of internal standards of the taxpayer or
22 lack of market, cannot or will not be sold, the
23 fair market value of such contribution shall be
24 determined—

1 “(i) without regard to such internal
2 standards or such lack of market, and

3 “(ii) by taking into account the price
4 at which the same or substantially the
5 same food items (as to both type and qual-
6 ity) are sold by the taxpayer at the time of
7 the contribution (or, if not so sold at such
8 time, in the recent past).

9 “(E) APPARENTLY WHOLESOME FOOD.—
10 For purposes of this paragraph, the term ‘ap-
11 parently wholesome food’ has the meaning given
12 such term by section 22(b)(2) of the Bill Emer-
13 son Good Samaritan Food Donation Act (42
14 U.S.C. 1791(b)(2)), as in effect on the date of
15 the enactment of this paragraph.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to contributions made after the
18 date of the enactment of this Act.

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