

111TH CONGRESS
1ST SESSION

H. R. 3227

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

IN THE HOUSE OF REPRESENTATIVES

JULY 15, 2009

Mr. LEVIN (for himself and Mr. DAVIS of Kentucky) 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 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. EXTENSION AND EXPANSION OF CHARITABLE**
4 **DEDUCTION FOR CONTRIBUTIONS OF FOOD**
5 **INVENTORY.**

6 (a) PERMANENT EXTENSION.—Subparagraph (C) of
7 section 170(e)(3) of the Internal Revenue Code of 1986
8 is amended by striking clause (iv).

9 (b) DETERMINATION OF BASIS FOR TAXPAYERS
10 OTHER THAN C CORPORATIONS.—Subparagraph (C) of

1 section 170(e)(3) of such Code, as amended by subsection
2 (a), is amended by adding at the end the following new
3 clause:

4 “(iv) DETERMINATION OF BASIS FOR
5 TAXPAYERS OTHER THAN C CORPORA-
6 TIONS.—If a taxpayer—

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

9 “(II) is not required to capitalize
10 indirect costs under section 263A,
11 the taxpayer may elect, solely for purposes
12 of subparagraph (B), to treat the basis of
13 any apparently wholesome food as being
14 equal to 25 percent of the fair market
15 value of such food.”.

16 (c) DETERMINATION OF FAIR MARKET VALUE.—
17 Subparagraph (C) of section 170(e)(3) of such Code, as
18 amended by subsections (a) and (b), is amended by adding
19 at the end the following new clause:

20 “(v) DETERMINATION OF FAIR MAR-
21 KET VALUE.—In the case of any such con-
22 tribution of apparently wholesome food
23 which, solely by reason of internal stand-
24 ards of the taxpayer, lack of market, or
25 similar circumstances, or which is pro-

1 duced by the taxpayer exclusively for the
2 purposes of transferring the food to an or-
3 ganization described in subparagraph (A),
4 cannot or will not be sold, the fair market
5 value of such contribution shall be deter-
6 mined—

7 “(I) without regard to such inter-
8 nal standards, such lack of market,
9 such circumstances, or such exclusive
10 purpose, and

11 “(II) by taking into account the
12 price at which the same or substan-
13 tially the same food items (as to both
14 type and quality) are sold by the tax-
15 payer at the time of the contribution
16 (or, if not so sold at such time, in the
17 recent past).”.

18 (d) SPECIAL RULE FOR CONTRIBUTIONS IN 2009
19 AND 2010.—Subparagraph (C) of section 170(e)(3) of
20 such Code, as amended by subsections (a), (b), and (c),
21 is amended by adding at the end the following:

22 “(vi) SPECIAL RULE FOR 2009 AND
23 2010.—In the case of any such contribution
24 during any taxable year beginning in 2009
25 or 2010, notwithstanding subparagraph

1 (B), the amount of the reduction deter-
2 mined under paragraph (1)(A) shall not
3 exceed the amount by which the fair mar-
4 ket value of the apparently wholesome food
5 exceeds twice the basis of such food.”.

6 (e) EFFECTIVE DATES.—

7 (1) IN GENERAL.—Except as provided in para-
8 graph (2), the amendments made by this section
9 shall apply to contributions made after the date of
10 the enactment of this Act, in taxable years ending
11 after such date.

12 (2) SPECIAL RULE FOR 2009 AND 2010.—The
13 amendment made by subsection (d) shall apply to
14 contributions made in taxable years beginning after
15 December 31, 2008.

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