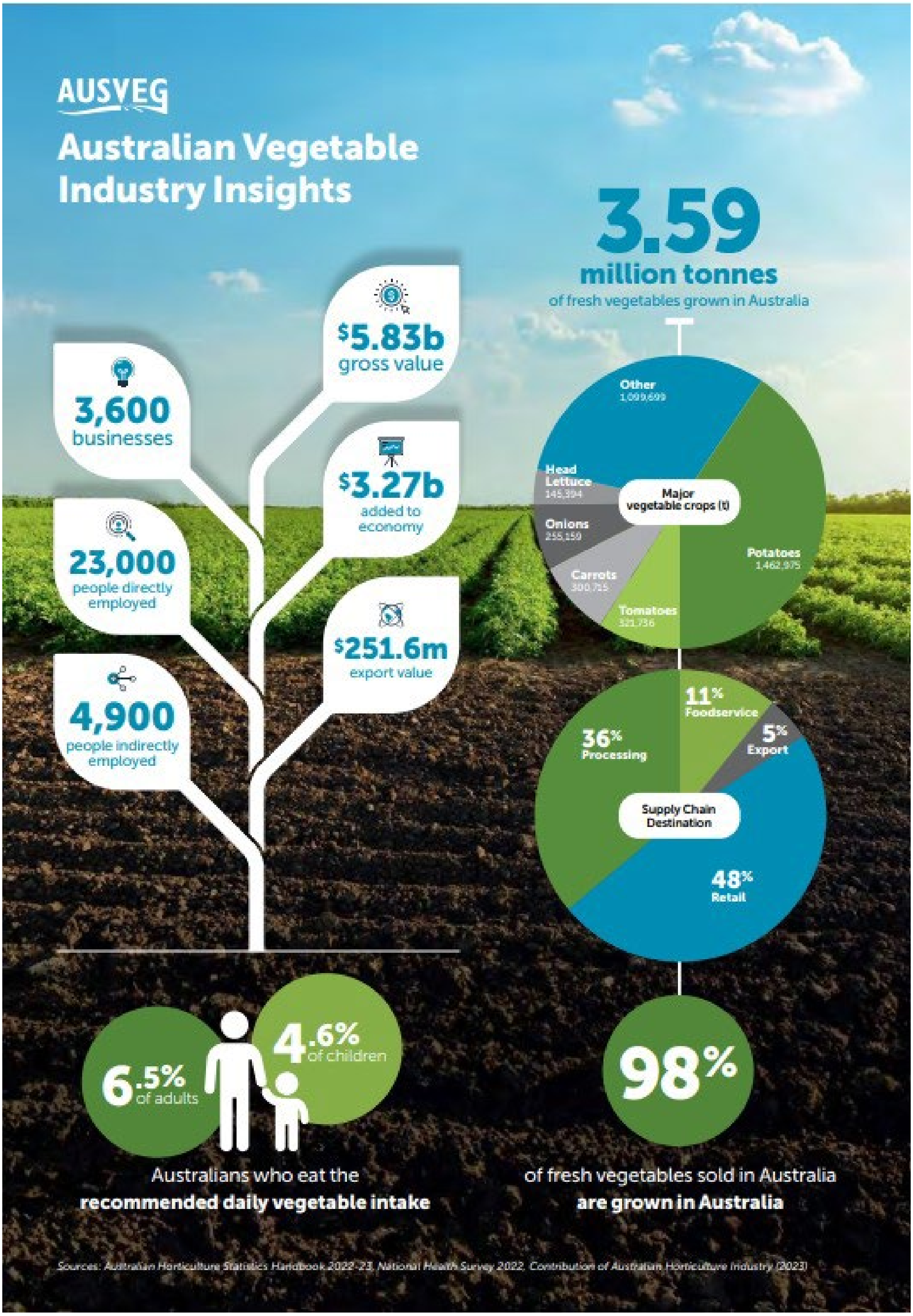
Submission in response to the

TAX LAWS AMENDMENT (INCENTIVISING FOOD DONATIONS TO CHARITABLE ORGANISATIONS) BILL 2024

VEGETABLE INDUSTRY INSIGHTS



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ABOUT AUSVEG

AUSVEG is the prescribed Peak Industry Body representing the interests of the Australian vegetable, potato, and onion industry. AUSVEG is a not-for-profit, member-based organisation that is run by growers, for growers.

AUSVEG represents over 3,600 vegetable producers that account for 3.6 million tonnes of annual vegetable production, and a farmgate value of $5.8 billion.

AUSVEG is a nationally federated body with the following members: AUSVEG VIC, AUSVEG SA, Queensland Fruit and Vegetable Growers, vegetablesWA, NSW Farmers, NT Farmers, WA Potatoes, and TasFarmers.

The purpose of AUSVEG is to advocate on behalf of industry at local, state, and federal levels with the core purpose of enhancing the economic, social, and commercial environment for growers so that the industry can continue to produce outstanding vegetables, potatoes, and onions for Australian and international consumers.

AUSVEG also delivers services for growers around Australia in the areas of extension, communication, environmental sustainability, biosecurity, export development and market access, working closely with growers to ensure their needs are reflected in this work.

In partnership with the International Fresh Produce Association A-NZ, AUSVEG hosts Hort Connections, Australia's largest horticulture conference and trade show, which attracts more than 4,000 delegates annually. This event brings growers, supply chain, government and industry members together to increase awareness and uptake of the latest industry innovations, research and development outcomes, and to facilitate vital industry networking opportunities.

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EXECUTIVE SUMMARY

AUSVEG welcomes the opportunity to provide feedback on the *Tax Laws Amendment (Incentivising Food Donations to Charitable Organisations) Bill 2024*. AUSVEG gives in principle support for the Bill and views it as largely beneficial to the Australian vegetable industry.

Food waste in Australia, especially within the vegetable industry, is a significant issue due to the perishability of fresh produce. It is estimated that more than 7.6 million tonnes of food is wasted annually, costing the Australian economy over $36.6 billion per year[1]. This has prompted concerns about the economic and social implications of food wastage, especially considering that an estimated 3.7 million Australian households experience moderate to severe levels of food insecurity[2].

We would like to emphasise five key points to ensure the success of the proposed incentive scheme for the vegetable industry. One is to ensure that in the instance where produce is rejected by supermarkets, growers retain the autonomy to decide what to do with rejected produce and receive the tax incentive in the case of donation. Additionally, to ensure the effectiveness of the proposed tax incentive scheme, it is proposed that food donated to charities should be exempt from horticulture levies. Finally, we propose to expand the eligibility to entities other than Constitutional Corporations, such as Trusts and Partnerships; expand the type of registered food charity to include those entities registered as a Public Benevolent Institution under the *Australian Charities and Not-for profits Commission Act 2012*; and extend the proposed 40 per cent offset to apply to entities with an aggregated turnover of at least $20 million and less than $250 million for the income year while maintaining the 30 percent offset for entities with an aggregated turnover of $250 million or more.

The tax incentive proposed in the Bill has significant benefits for the Australian vegetable industry. It will address the issue of rejected produce (based on aesthetic standards) by providing compensation to farmers upon donation. This tax incentive will enable them to redirect rejected produce into the circular economy, thereby combating food waste and promoting sustainability. Particularly beneficial for smaller farmers, the incentive allows for tax relief on costs associated with distributing surplus produce to donation centres, alleviating financial strains, and promoting long-term sustainability for smaller agricultural enterprises.

We note the 36-month sunset clause of Division 419 of the *Income Tax Assessment Act 1997*. Whilst AUSVEG believes that this legislation should be ongoing, we would welcome a review prior to sunsetting to ensure the benefits of the legislation are realised for all stakeholders.

In conclusion, the *Tax Laws Amendment (Incentivising Food Donations to Charitable Organisations) Bill 2024* presents an opportunity to address food waste, provide growers with a level of financial compensation for rejected produce that may otherwise go to waste, support charitable organisations, and improve food security for millions of Australians. We urge the government to consider these recommendations and ensure that the proposed tax incentive effectively encourages food donations while addressing the concerns of growers and charitable organisations.

[1] 2022. '*Australian National Food Donation Tax Incentive Implementation Analysis*', KPMG. p. 5. Viewed 24 July 2024

[2] 2023. '*Foodbank Hunger Report Research 2023: National Key Findings*', Foodbank. p. 4, Viewed 24/7/24

FOOD WASTE AND FOOD SECURITY

Food waste in Australia, particularly within the vegetable industry, has been a long-standing concern. The perishability of fresh produce makes horticultural products especially vulnerable to waste and loss, leading to significant economic and social implications.

Current State of Food Waste:

Australia is an incredibly fertile land that is able to grow enough food to comfortably sustain three times the size of its population. However, according to the *Foodbank Hunger Report 2023*, an estimated 3.7 million Australian households experienced moderate-to-severe levels of food insecurity[3], indicating a pressing need to address food security.

Food waste is one of the biggest issues contributing to food insecurity, and horticulture accounts for 33 percent of all national food waste[4]. This amounts to more than 7.6 million tonnes of food waste each year, and 70 percent of this food is still edible, which is estimated to cost the Australian economy over $36.6 billion per year[5].

Proposed Solutions and Concerns:

Supermarkets' rejection of fresh produce supplied by growers contributes significantly to the issue of food waste in Australia, with farmers losing $27.9 million to produce being rejected each year. This equates to roughly 13.95 million kilos of fruit and vegetables annually that will never reach the consumer[6]. This issue is also a cause of much concern and uncertainty for growers, with 1 in 3 farmers worried that produce will be rejected by commercial buyers[7]. Furthermore, some farmers do not see donation as an option because of perishability, and high costs associated with transporting, storing, and packing produce. In fact, upon rejection at the supermarket gate, 19 percent dispose of the produce and 19 percent give the produce to the supermarket for free[8].

Thus, within the proposed tax incentive it is essential to specify who holds eligibility to claim the incentive when fresh produce is rejected by supermarkets. It is our strong recommendation that the grower retains control of rejected produce and that the decision on what to do with that produce is at the growers' discretion. Further, it is crucial that the grower holds the right to receive the tax incentive as they incurred the cost to produce the food, and that when produce is rejected, the grower is promptly notified of the option to donate the produce to charitable organisations and receive the tax incentive. Incorporating this approach into the incentive mechanism, will encourage donation over disposal, and help realise the intent of the Bill.

Secondly, it is important to consider the impact of this tax incentive on the horticultural Research and Development levies paid by growers. To ensure the effectiveness of the proposed tax incentive scheme, AUSVEG proposes that food donated to charities should be exempt from horticulture levies, as the produce is not sold but directed towards charitable purposes.

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[3] Foodbank. p. 4.
[4] McKenzie, T. Singh-Peterson, L and Underhill S, 2017. '*Quantifying Postharvest Loss and the Implication of Market-Based Decisions: A Case Study of Two Commercial Domestic Tomato Supply Chains in Queensland, Australia*', p.1, Viewed 30 July 2024.
[5] KPMG. p. 5. Viewed 24 July 2024.
[6] 2023. '*The Farm to Supermarket Food Waste Report 2023*', Good & Fugly, p. 8. Viewed 24 July 2024.
[7] Ibid. p. 4. Viewed 24 July 2024.
[8] Ibid. p. 7. Viewed 24 July 2024.

Thirdly, we recommend expanding the eligibility criteria to encompass entities beyond Constitutional Corporations, including Trusts and Partnerships. Many food-related businesses, such as family farms, operate in these alternative forms. By broadening the scope of eligible entities, we can ensure that a wider array of food-related businesses can avail themselves of the benefits outlined in the Bill. This expansion will foster greater fairness and inclusivity in the allocation of resources, ultimately contributing to a more resilient and equitable food industry.

AUSVEG proposes that the type of registered food charity be expanded to include those entities registered as a Public Benevolent Institution under the *Australian Charities and Not-for-profits Commission Act 2012*. This expansion will help facilitate greater food donations to charitable organisations, ultimately benefiting the community and aligning with the spirit of the proposed Bill, streamlining the process of food donations and ensuring that more organisations can participate in this important initiative.

Finally, AUSVEG strongly recommends that the proposed 40 per cent offset be extended to apply to entities with an aggregated turnover of at least $20 million and less than $250 million for the income year while maintaining the 30 percent offset for entities with an aggregated turnover of $250 million or more. By implementing this modification, medium-sized businesses, such as family-owned enterprises and small transport operators, which typically operate with high turnover but low margins, could take advantage of the tax incentive associated with the offset claim. This targeted approach acknowledges the specific challenges these businesses face and aims to facilitate their participation in making food donations to charitable organisations.

KEY BENEFITS OF THE TAX INCENTIVE TO THE VEGETABLE INDUSTRY

This Bill will have a broadly positive impact on the Australian vegetable industry, by providing a tangible cost offset mechanism for Australian growers.

Through the implementation of an effective tax incentive, farmers will have an avenue to partially recover some of the cost of producing and supplying produce that is rejected at the supermarket distribution centres (DCs) for not meeting supermarket specifications, and for which they would otherwise receive minimal or no financial return. Such rejections are often based on aesthetic standards such as size or skin marks, but the produce is otherwise perfectly fit for human consumption. By offering a financial incentive to redirect rejected produce into the circular economy and making it available to those in need, this legislation will actively promote sustainability and combat food waste.

Notably, the tax incentive will particularly benefit smaller farmers who may struggle to absorb the costs associated with surplus food and are more likely to resort to wasteful disposal. Smaller framers report being squeezed the most in the current economic climate, struggling with higher operating costs and labour availability, and 45 percent reporting lower profits[9]. By providing tax relief on the cost of getting fresh produce to donation centres – such as transport, food storage, and packaging – the legislation will help offset the considerable post farm gate expenses faced by smaller agricultural enterprises, ultimately assisting businesses in justifying donation over disposal and promoting long-term sustainability.

[9] Good & Fugly, p. 3. Viewed 24 July 2024.

HORTICULTURAL LEVIES

Australian vegetable, potato and onion growers play a crucial role in supporting the industry by paying relevant levies, which fund essential initiatives such as Emergency Plant Pest Response (EPPR), Plant Health Australia, and research and development (R&D). The producer pays these levies at the first point of sale. As outlined in the tables below[10], vegetable, hard onion and potato levies are calculated either as a percentage of the sale value of the produce (vegetables), or a flat rate based on volume sold (potatoes, onions) highlighting a direct link between contributions made and market activity.

Levy and charge rates (commencing 1 October 2018)

Vegetables	EPPR	PHA	R&D	TOTAL
Unprocessed vegetables – calculated as a percentage of the sale value	0.010 per cent	0.015 per cent	0.485 per cent	**0.51 per cent**
Processed vegetables – calculated as a percentage of the value of the vegetable if it were first sold as an unprocessed vegetable	0.010 per cent	0.015 per cent	0.485 per cent	**0.51 per cent**

Onions:

Levy and charge component	Levy and charge rate
EPPR	$0.00 per tonne
Marketing	$1.00 per tonne
NRS	$0.00 per tonne
PHA	$0.10 per tonne
R&D	$2.90 per tonne
TOTAL	**$4.00 per tonne**

Potatoes	EPPR	PHA	R&D	TOTAL
Unprocessed potatoes (up to 30 September 2018)	$0.00	2 cents per tonne	48 cents per tonne	**50 cents per tonne**
Unprocessed potatoes (commencing 1 October 2018)	10 cents per tonne	2 cents per tonne	48 cents per tonne	**60 cents per tonne**
Processing potatoes	-	1 cent per tonne	49 cents per tonne	**50 cents per tonne**

An important aspect to consider is that the levies are not paid on dumped produce, as it is not sold. This is why AUSVEG firmly proposes that levies should not be paid on produce that is donated, as it

[10] '*Vegetables Levy and Charge*', DAFF. https://www.agriculture.gov.au/agriculture-land/farm-food-drought/levies/rates/vegetables Viewed 1 August 2024.

would not classify as a 'sale'. This would ensure that the levies are only applied when the produce is actually sold, reflecting a fair and practical approach to levy payments.

CONCLUSION

The *Tax Laws Amendment (Incentivising Food Donations to Charitable Organisations) Bill 2024* has the potential to make a meaningful and positive impact on the Australian vegetable industry, support a reduction in food waste and provide much-needed support to Australian farmers. Addressing the considerations outlined above, can help ensure the effective implementation of the proposed tax incentive scheme, while addressing the concerns of growers and charitable organisations.

Key recommendations

1. When fresh produce is rejected by supermarkets, it is essential that the farmer retains the right to decide whether to take the produce back, or donate it.
2. That the grower is the party eligible for the tax rebate upon donation.
3. Food donated to charities should be exempt from horticulture levies, as the produce is not sold but directed towards charitable purposes.
4. Expand the eligibility to entities other than Constitutional Corporations, such as Trusts and Partnerships.
5. Expand the type of registered food charity to include those entities registered as a Public Benevolent Institution under the *Australian Charities and Not-for profits Commission Act 2012*.
6. Extend the proposed 40 per cent offset to apply to entities with an aggregated turnover of at least $20 million and less than $250 million for the income year while maintaining the 30 per cent offset for entities with an aggregated turnover of $250 million or more.
7. With the above recommendations incorporated, AUSVEG urges the government to support and pass this Bill for the benefit of the producers that comprise the Australian vegetable industry.