



## Donating Safe and Wholesome Food

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The EPA cited that the United States generated over 39 million tons of food waste in one year (U.S. Environmental Protection Agency, 2015). And, while Americans dispose of millions of tons of food, the U.S. Department of Agriculture estimates that 11.8 percent of American households—about 15 million households—had difficulty providing enough food for all their family members (Coleman-Jensen et al., 2018). Much of the food disposed into landfills is wholesome and edible. So, exactly how would a potential food donor get started? How can someone get wholesome, edible food into the hands of the needy?

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*By donating unspoiled and  
healthy food,  
we feed people and not landfills.*

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### Everyone Can Become Food Donors

Large manufacturers, retailers, wholesalers, farmers, food brokers, restaurants, and consumers can all be potential food donors. Many local food banks will pick up food donations free of charge, saving warehouse storage and disposal costs.

### Legal Basics

Many food businesses and even consumers are hesitant to donate foods over concern about foodborne illness and any liability attached. The Bill Emerson Good

Samaritan Food Donation Act of 1996 established that as long as a food donor acts without negligence or intentional misconduct, they cannot be held liable for any foodborne illness that might occur as long as the item is:

- Wholesome food or an apparently fit grocery product
- Donated in good faith
- Donated to a non-profit organization
- Distributed to the needy

### Food Safety Basics

The Bill Emerson Good Samaritan Food Donation Act (1996) states:

*A person or gleaner shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to needy individuals.*

The key words in the above statement are “apparently wholesome” and “apparently fit.” The word *safe* should be added to those key words to safeguard and ensure the food is harmless to eat (consume). If the donor would willingly consume the potential donated food, then it is likely wholesome and fit. Spoiled or inedible foods are not candidates for food donation. If the donor would not willingly consume the potential donated food, then throw it out. Follow the advice of this food

safety slogan: "When in doubt, throw it out."

### Non-Perishable Food

Most non-perishable foods are easily determined wholesome, fit, and safe. By their nature, most non-perishable foods are safe. Some examples of non-perishable foods suitable for food donation include:

- Dry spices
- Dry cake mixes
- Dry noodle type dishes
- Dry cereals
- Candy and chocolate

- Dry snacks like potato chips
- Cookies
- Peanut butter

Many families in Utah store foods for emergencies. Some foods have a longer shelf life than others do. When these households decide to replace stored foods, they may donate wholesome and fit, non-perishable foods. Table 1 outlines some of these non-perishable foods. Note that many food banks do not encourage donating foods more than one year past their expiration date. Food banks will likely not accept the ten-year-old box of dry pancake mix, but it never hurts to ask.

Table 1.

*Examples of Non-Perishable Food Storage<sup>1</sup> Foods Suitable and Unsuitable for Food Donation*

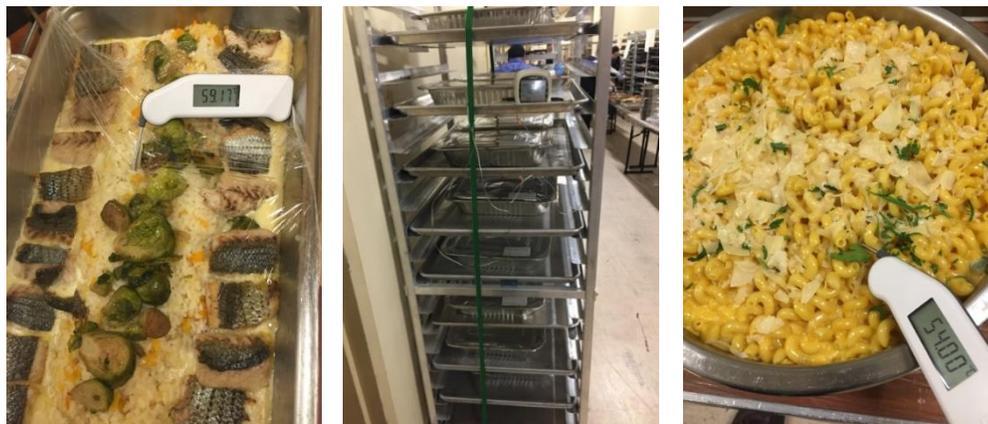
Suitable (in original packaging)	Unsuitable (usually)
Dried and freeze-dried foods (all)	Home canned foods
Commercially canned foods	Bagged wheat or grains
Commercially bought cookies, candies, and snacks	Home packaged butter
Bottled water or shelf stable drinks	Anything more than one year past its stated expiration date

<sup>1</sup>Foods stored for emergencies.

### Perishable Food

The wholesome, fit, and safe criterium is more complex for perishable foods. It is recommended that consumers **NOT** donate any perishable foods. Most food banks would not accept these items unless donated under very strict conditions. Usually the risk is too high for the small amount of perishable food that can be donated by consumers. On the other hand, food businesses are encouraged to donate properly managed perishable

foods. *Management* includes positively knowing that the perishable food is wholesome, fit, and safe (Figure 1). That criterium is easily determined by complying with the U.S. FDA model Food Code (U.S. Food and Drug Administration, 2017) for retailers and restaurants and complying with FDA good manufacturing practices for food manufacturers (21 CFR 117 Part B). When in doubt about the safety of a potential food donation, consult your local food bank or food rescue operation, or your state or local food regulator.



**Figure 1.** (Left) Verifying temperature of hot fish over rice °C; (Center) A speed rack of donated foods in aluminum trays; and (Right) Verifying temperature of hot mac-n-cheese °C. Photos: B.A. Nummer, 2019.

Most perishable foods suitable for donation have been refrigerated or frozen. Some examples of these foods include refrigerated or frozen:

- Raw meats
- Vegetables
- Complete meals
- Rice, potatoes, or pasta
- Desserts
- Condiments (ketchup, etc.)

It may be possible for retailers, restaurants, or caterers to donate hot foods directly from an event to a food bank or food pantry if the food bank or pantry is willing to accept it and has the capacity to chill the product safely. Alternatively, the food donor must safely chill hot foods following the requirements specified in the Food Code (U.S. Food and Drug Administration, 2017), and then donate the food chilled or frozen.

Food donors should also be aware of the risks of allergens in foods. If a food is not retail packaged and labeled, we highly recommended that the food donor place a label or sticker on donated foods with the following information:

Name of food. Date made.

This food MAY contain allergens and has been made in a facility that contains allergens.

For perishable foods, add “Keep refrigerated or frozen” to the above label if appropriate. If the food needs reheating before consuming, add “Reheat to 165°F before service” to the above label. Reheating to 165°F right before service will kill most potential foodborne illness bacteria.

## Tax Benefits

Potential tax benefits exist for individuals and companies that donate food. Any taxpayer (individual or company) can deduct the actual cost of donated food from their taxes as a charitable deduction (Blazek et al., 2016). However, since 2015, all business food donors (corporations, sole proprietors, and LLCs) have an opportunity for an **enhanced** deduction provided they donate to a non-profit that uses the food for the needy (Blazek et al., 2016). The enhanced deduction is the **smaller** of either: (1) two times the cost of the food to the business, or (2) the cost of the food plus half the profit margin of the food.

## Example

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*A caterer prepares food for an event that they will charge \$56 per person for 100 people. After the event, the caterer donates 30 portions (30%) of the leftover food to a non-profit. The cost of the food per person was \$12.  
 $30 \times \$12 = \$360$ .*

*Under scenario (1) above, the deduction would total \$720.*

*Under scenario (2) above, the per person profit margin is  $55 - 12 = \$43$ . One-half of that is \$21.50. Donating 30 portions is  $30 \times 12 + 30 \times 21.50 = \$1005$ .*

*The enhanced deduction permitted is the lesser of the two, which means the deduction would be \$720.*

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We highly recommended that business owners consult legal counsel or tax professionals to ensure they follow correct procedures regarding both application and record keeping for tax deductions.

## Find Food Recipient Organizations

Generally, non-profit food recipient organizations include food banks, food pantries, soup kitchens, and shelters. Check with them directly to gauge their interest in accepting excess wholesome foods. Most food banks and food pantries serve as intermediaries who further distribute donated foods to their partner kitchens who serve or distribute the food directly to the needy. A quick check on the internet can help you locate the nearest charity that will accept your donated foods.

## References

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