



INDONESIA

INDONESIA  
**RECOMMENDATIONS**  
FOOD DONATION  
LAW AND POLICY

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## About The Global Food Donation Policy Atlas

The Global Food Donation Policy Atlas is a first-of-its-kind initiative to promote better laws on food donation to help address food loss and food insecurity. This project maps the laws affecting food donation in countries across the globe to help practitioners understand national laws relating to food donation, compare laws across countries and regions, analyze legal questions and barriers to donation, and share best practices and recommendations for overcoming these barriers. The project is a collaboration between the Harvard Law School Food Law and Policy Clinic (FLPC) and The Global FoodBanking Network (GFN). To learn about and compare the food donation laws and policies for the countries FLPC has researched to date, visit [www.atlas.foodbanking.org](http://www.atlas.foodbanking.org).

## About the Harvard Law School Food Law and Policy Clinic

The Harvard Law School Food Law and Policy Clinic (FLPC) serves partner organizations and communities by providing guidance on cutting-edge food system legal and policy issues, while engaging law students in the practice of food law and policy. FLPC focuses on increasing access to healthy foods; supporting sustainable food production and food systems; and reducing waste of healthy, wholesome food. For more information, visit [www.chlpi.org/FLPC](http://www.chlpi.org/FLPC).



## About The Global FoodBanking Network

The Global FoodBanking Network (GFN) supports community-driven solutions to alleviate hunger in more than 40 countries. While millions struggle to access enough safe and nutritious food, nearly a third of all food produced is lost or wasted. GFN is changing that. GFN believes food banks directed by local leaders are key to achieving Zero Hunger and building resilient food systems. For more information, visit [www.foodbanking.org](http://www.foodbanking.org).



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# ABOUT THESE RECOMMENDATIONS

This document is a product of The Global Food Donation Policy Atlas project, a partnership between the Harvard Law School Food Law and Policy Clinic (FLPC) and The Global FoodBanking Network (GFN). The Atlas project is an innovative partnership designed to map the laws and policies affecting food donation in countries across the globe and provides a comparative legal analysis based on these findings. For each of these countries, the Global Food Donation Atlas project will produce a legal guide to identify the laws relevant to food donation in that country. While the landscape differs across geopolitical borders, the legal guides recognize universal issues that impact efforts to reduce food loss and waste and increase food recovery. These issues include food safety, date labeling, liability, taxes, donation requirements and food waste penalties, and government grants or funding programs.

In-country interviews with relevant stakeholders, including food banks and other food recovery organizations, food donors, and legal experts, further informed the content of the legal guide and revealed priority actions for law and policy change. Based on these findings, FLPC has developed specific recommendations for each country. These recommendations are intended to serve as a companion to the legal guides, though both documents may stand alone. The purpose of these recommendations is to highlight select actions for improving upon laws, policies and programs relevant to food loss, waste, and donation.

This document sets forth recommendations focused on Indonesia, where as much as 48 million tons of food is wasted each year, causing an estimated 213 to 551 trillion Indonesian rupiah (Rp), or US\$15 to \$39 billion, in economic loss.<sup>1</sup> The discussion below provides a brief overview of the legal issues most pertinent to food donation, which the Indonesia Legal Guide explains in more detail. The recommendations included in this report are not exhaustive, but offer select best practices and policy solutions to reduce food loss and waste and combat food insecurity through stronger food donation laws and policies in Indonesia.



# SUMMARY OF RECOMMENDATIONS

The recommendations contained in this document aim to provide a starting point for stakeholders in Indonesia to strengthen the legal and policy framework relevant to food donation. Food banks and other organizations whose mission is to reduce food waste and increase food donation (collectively referred to as “food recovery organizations”), donors, and policymakers should consider additional opportunities to advance food donation and reduce food waste. In summary, the recommendations are as follows:

To ensure that food is donated safely and does not pose risks to recipients, and to provide clarity to encourage food donors, the government of Indonesia should:

- Amend Law No. 18 of 2012 on Food and Government Regulation No. 86/2019 to feature a donation-specific section.
- Produce and disseminate guidance to clarify which food safety requirements apply to donated food.

To ensure that quality-based date labels do not result in the disposal of food that is otherwise safe for consumption or donation, the government of Indonesia should:

- Update Law No. 18 of 2012 on Food to create a dual labeling system.
- Remove the restriction on distributing food past the quality date from Law No. 18 of 2012 on Food and its implementing regulations.
- Eliminate shelf life requirements for food imported for donation.
- Promote consumer education and awareness on the meaning of date labels.

To ensure concern for liability arising out of donating food does not deter potential donors, the government of Indonesia should:

- Enact legislation that establishes clear and comprehensive liability protection for food donors and food recovery organizations.

To ensure businesses (both donors and distributors) receive proper tax incentives and sufficient information to participate in food donation, the government of Indonesia should:

- Offer tax incentives for food donations made to food recovery organizations.
- Adjust the value-added tax so that it does not pose a potential barrier to donation.
- Reduce or remove import duty for food imported for donation.

# INTRODUCTION

Food loss and waste represents a major environmental, economic, and social challenge in Indonesia. High food prices and unequal access to food have created conditions in which almost 20 million people are unable to meet their basic nutritional requirements,<sup>2</sup> and more than one-third of Indonesian children under age 5 are stunted.<sup>3</sup> This food insecurity is unevenly distributed across the country, with higher rates in rural regions in the eastern portion of the archipelago, far from the nation's primary urban center and capital city of Jakarta.<sup>4</sup> Although Indonesia is a net agricultural exporter, its agricultural economy is centered on exported goods, and the country relies on imports for many staple foods, resulting in unusually high food prices.<sup>5</sup> Such high food prices contribute to ongoing poverty and food insecurity, particularly in rural regions.<sup>6</sup> Despite these challenges, Indonesia has a strong commitment to food security. The Constitution of Indonesia implicitly recognizes the right to food and nutrition through its affirmation of the rights to life and basic needs in Chapter XA.<sup>7</sup> Law No. 18 of 2012 on Food further codifies this right by holding the government responsible for the provision and distribution of staple food and other foods in line with the needs of the poor, those vulnerable to food scarcity, and those in emergency situations.<sup>8</sup>

**WHILE FOOD INSECURITY REMAINS A PRESSING ISSUE, FOOD WASTE IS ALSO RAMPANT IN INDONESIA. ESTIMATES OF FOOD WASTE RANGE FROM 115 TO 300 KILOGRAMS PER PERSON ANNUALLY.**

While food insecurity remains a pressing issue, food waste is also rampant in Indonesia.<sup>9</sup> Estimates of food waste range from 115 to 300 kilograms per person annually.<sup>10</sup> Organic waste accounts for 60% to 65% of waste disposed in landfills,<sup>11</sup> resulting in overflowing landfills and a “waste emergency” in Jakarta.<sup>12</sup> While there is minimal data on food waste at various points of the supply chain, one recent report from the Ministry of National Development Planning (*Kementerian Perencanaan Pembangunan Nasional Republik Indonesia*, Bappenas) identifies five major drivers, including poor agricultural handling practices, suboptimal storage space, market quality standards, lack of education, and consumer behavior.<sup>13</sup>

This report also highlights potential solutions to help curb future food loss and waste, including consumer education, improved farming infrastructure, national and regional regulations, food distribution platforms, and strengthened data on food loss and waste.<sup>14</sup> Although Indonesia does not yet have a published governmental plan or specific legislation to address food loss and waste and promote greater food recovery and donation, it has committed itself to the issue by including the United Nations Sustainable Development Goals in its most recent development plan, including Target 12.3 (halving per capita global food loss and waste).<sup>15</sup>

In Indonesia, private-sector actors, including food banks, are actively promoting the rescue and donation of surplus food to mitigate hunger and food insecurity. For example, FoodCycle Indonesia, a food bank located in Jakarta, worked with donors and nonprofits to distribute nearly 180,000 kilograms of food in 2021, serving 21,500 beneficiaries through 82 partner organizations.<sup>16</sup> Similarly, Scholars of Sustenance Indonesia (SOS), a food rescue organization located in Bali, collects surplus food from hotels, restaurants, manufacturers, and other businesses and provides 34,000 meals each month to orphanages, communal housing, refugees, and other low-income people.<sup>17</sup> On the corporate side, the Indonesia Business Council for Sustainable Development (IBSCD), a CEO-led business association, leads GRASP 2030 (*Gotong Royong Atasi Susut & Limbah Pangan di 2030*), a voluntary agreement where businesses commit to food loss and waste reduction targets, measure their waste, and take action to reduce their waste and hit their targets.<sup>18</sup> There are currently six core business signatories.<sup>19</sup>

While current efforts by the government of Indonesia, nonprofits, and the private sector are a good start to reduce food loss and waste and rescue food, there remains significant room for improvement given the

current lack of law or policy aimed at these goals. The following sections briefly summarize some of the most common legal issues relevant to food donation (as identified and described in more detail in the Legal Guide) and offer policy recommendations to address these challenges.

# LEGAL CHALLENGES & POLICY RECOMMENDATIONS

## Food Safety for Donations

### Issue Overview

A key barrier to food donation in many countries is the lack of knowledge or readily available guidance regarding safety procedures for food donation. Potential donors are often uncertain as to which food safety regulations apply to donated food, as opposed to purchased food, as well as the steps necessary to safely donate food in compliance with applicable regulations. As a result, safe, surplus food that could have been redirected to populations in need is instead destined for landfills.

Food safety laws in Indonesia are mostly contained within chapter VII of Law No. 18 of 2012 on Food as amended by Law No. 11 of 2020 regarding Job Creation (“Food Law”) and Government Regulation No. 86/2019, which detail requirements related to food sanitation, food additives, genetically modified foods, irradiated food, and food labeling.<sup>20</sup> Government Regulation No. 86/2019 applies to the food system as a whole, covering agriculture, importation, manufacturing, processing, and distribution to the public, including food that is distributed for free.<sup>21</sup> Government Regulation No. 86/2019 requires that foods meet sanitary requirements and not pose a risk to human health.<sup>22</sup>

Neither the Food Law nor Government Regulation No. 86/2019 includes separate procedures or sections for food donation. Attempting to discern which food safety rules apply to food donation is a burdensome and challenging task, especially since the government of Indonesia has not provided guidance on this issue. Without distinct provisions dedicated to food donation, food donors and food recovery organizations likely assume that all provisions apply and therefore may avoid donating food even if it is still safe for human consumption. For example, current food safety standards would bar the donation of food with a minor labeling error or food that is unsaleable for another reason unrelated to food safety.

### Recommended Policy Actions

- 1. AMEND LAW NO. 18 OF 2012 ON FOOD AND GOVERNMENT REGULATION NO. 86/2019 TO FEATURE A DONATION-SPECIFIC SECTION.**

To eliminate uncertainty regarding which food safety requirements apply to donated food, the government of Indonesia should update the current food safety framework. The Indonesian legislature could amend the Food Law, delineating which of the Chapter VII provisions concern food safety and which apply to food donation operations. Such an amendment would require action at the highest level of government with leadership from the House of Representatives and the President.

Additionally, the central government, through the President, could promulgate clarifying regulations around food safety and food donation. For example, the central government could amend Government Regulation No. 86/2019 to clarify which provisions apply to food donations with a focus on streamlining requirements and

ensuring that only truly safety-based requirements apply. Alternatively, the central government could issue an additional regulation that focuses exclusively on food donation operations, enumerating which requirements pertain to food safety and apply to food donors and food recovery organizations. For example, India's Surplus Food Regulations set specific food safety, handling, and distribution requirements related to food donation.<sup>23</sup>

## 2. PRODUCE AND DISSEMINATE GUIDANCE TO CLARIFY WHICH FOOD SAFETY REQUIREMENTS APPLY TO DONATED FOOD.

Clear guidance from the Indonesian Food and Drug Authority (*Badan Pengawas Obat dan Makanan*, BPOM) on which provisions of the Food Law or Government Regulation No. 86/2019 apply to donated food would help ease concerns of food donors and food recovery organizations. Ensuring that these actors understand which sanitary requirements apply to donated food would also support increased and safer donation operations. BPOM, through its Processed Food Directorate, could draft such guidance through a decree. BPOM could coordinate with food donors and food recovery organizations to produce this clarifying guidance to ensure it protects the public and supports food donation efforts.

## Date Labeling

### Issue Overview

A major driver of food waste and an obstacle to food donation is the general misconception about date labels such as “sell by,” “use by,” or “best by” affixed to food products. Many donors and consumers interpret these date labels as indicators of the safety of food. Despite this interpretation, for the vast majority of foods, date labels indicate freshness or quality rather than food safety, and few foods become more likely to carry foodborne illnesses over time. Donors and food recovery organizations, however, being cautious about food safety, may discard food once the date has passed even if the food is perfectly safe to donate and consume.

In other countries that have measured the impact of date labels, research has found that consumers generally confuse date labels as indicators of safety rather than quality. In the United Kingdom, for example, researchers found that consumers discarded about 22% of food that they could have eaten due to confusion over date labeling.<sup>24</sup> Similarly, 84% of Americans report that they throw away food after the expiration date passes due to safety concerns, even if there is minimal risk of a foodborne illness at that time.<sup>25</sup> This confusion occurs in the home but also impacts food businesses' willingness to donate as well as stigma against past-date food among food donation recipients.

This cycle of confusion and waste occurs in Indonesia under the current date labeling regime, which mandates a quality-based “best before” label (*baik digunakan sebelum*) and prohibits the distribution of past-date food. Almost all foods are required under the Food Law to bear a producer-determined expiration date with language translated as “best before.”<sup>26</sup> The expiration date is a quality-based date, defined in regulations as the “last date when the quality of food is guaranteed, as long as they are stored in accordance with the directions provided by the producer.”<sup>27</sup> The Food Law and its implementing regulations prohibit the distribution of expired foods, meaning foods past its quality date.<sup>28</sup> Food system actors, including food donors and food recovery organizations, that distribute past-date food are subject to administrative penalties such as fines, suspension of activities, compensation to the recipient of the past-date food, or revocation of a distributor's license.<sup>29</sup> Although the expiration date in Indonesia refers to quality and not safety, businesses and individuals may misunderstand the dates and interpret them to be indicators of safety, leading to unnecessary waste of wholesome food. Even though date labels in Indonesia denote quality, government regulations prohibit the distribution of past-date foods, creating unnecessary barriers to the donation of safe, wholesome food and resulting in increased food waste.

## Recommended Policy Actions

### 1. UPDATE LAW NO. 18 OF 2012 ON FOOD TO CREATE A DUAL LABELING SYSTEM.

Currently, almost all foods in Indonesia are required to bear a manufacturer-determined expiration date relating to quality using terminology translating to “best before.” To clarify the meaning of the date label on food products, the Indonesian legislature should amend and update the Food Law and its implementing regulations to introduce a dual labeling system with one standard date label to indicate quality and another standard label to indicate safety.

Many other countries, and the food industry itself, are moving toward this system of dual date labels. The 2018 update to the *Codex Alimentarius*’ General Standard for the Labelling of Prepackaged Foods creates a dual label system, recommending the terminology “Use-By Date” or “Expiration Date” to indicate safety and a “Best-Before Date” or “Best Quality-Before Date” to indicate quality.<sup>30</sup> Moreover, the *Codex Alimentarius* recommends that food have only one label: either a safety-based label (when required) or a quality-based label.<sup>31</sup> This model has been implemented by many other countries and regions, like the European Union (EU). The EU follows the *Codex Alimentarius*’ recommendations, requiring that the date label on any food products use only one of two standard labels. “Best before” is required for foods where the label indices quality, while “use by” is required for foods that may increase in food safety risk after the date.<sup>32</sup> Several EU member states have issued guidance clarifying the impact of these dates on food donation, and others have introduced legislation that explicitly allows for donation after the “best before” date (but not after the “use by” date).<sup>33</sup> The Consumer Goods Forum, a global network of 400 consumer goods companies across 70 countries, has also called for the standardization and adoption of a dual date labeling system that distinguishes between quality and safety by establishing one term for each category and prohibiting the use of any other terms.<sup>34</sup>

The Indonesian legislature should amend the Food Law to create a dual date label system. To follow global trends, it could adopt and translate the *Codex Alimentarius*’ recommended language of “best-before date” and “use-by date” for the two-label scheme to distinguish between quality and safety and only require one label on all foods. Creating a dual date label system with consistent language would provide greater certainty to consumers, food donors, and food recovery organizations as to the meaning of these dates. Such a scheme may reduce the amount of food that is thrown away.

### 2. REMOVE THE RESTRICTION ON DISTRIBUTING FOOD PAST THE QUALITY DATE FROM LAW NO. 18 OF 2012 ON FOOD AND ITS IMPLEMENTING REGULATIONS.

The Indonesian legislature should amend and update the Food Law to remove the restriction on distributing food past the quality date. As noted above, Indonesia’s date labeling regime is a quality-based system using language translating to “best before.” However, laws and regulations prohibit the distribution of food past this quality date. The Indonesian legislature should update the law, and BPOM should amend its regulations to remove the prohibition on distributing (e.g., donating) food past the expiration date and should clarify that food is safe to donate after a quality-based date even if the food is no longer marketable. If Indonesia moves to a dual date label system, the government should clarify that any restriction on past-date food distribution and donation applies only to the safety-based label.

### 3. ELIMINATE SHELF LIFE REQUIREMENTS FOR ALL IMPORTED FOOD DONATIONS.

Currently, Indonesia requires all food imported into the country to have at least two-thirds of its shelf life remaining.<sup>35</sup> Given its agricultural system and economic conditions, Indonesia remains highly reliant on

imports to sustain its food system, particularly for staple crops.<sup>36</sup> Indonesia should eliminate this burdensome shelf life requirement, at least with respect to foods imported for donation. Eliminating this import barrier could allow for more international donation and generally increase the pool of food available to be donated.

## **4. PROMOTE CONSUMER EDUCATION AND AWARENESS ON THE MEANING OF DATE LABELS.**

Given that most Indonesian citizens erroneously perceive expiry dates as indicators of safety, even if the prohibition on distributing past-date foods were lifted, increasing the sale, consumption or donation of food after this date will require a change in behavior. National consumer education will be critical to inform donors, food recovery organizations, and consumers that these dates do not convey safety but more likely indicate quality. Joint public- and private-sector initiatives may help ensure stakeholders understand that date labels should not stand as a barrier to donation.

## **Liability Protections**

### **Issue Overview**

A significant barrier to food donation is the fear among donors that they will be found liable if someone becomes sick after consuming donated food. Although there have been no documented lawsuits in Indonesia related to the consumption of donated food and there are numerous economic, cultural, social, and other barriers to bringing such suits, some multinational companies are still wary of exposing themselves to liability and potential litigation related to food donation. In particular, businesses are concerned about donating prepackaged foods because of the increased visibility and traceability of branded products and related reputational and public relation concerns.<sup>37</sup>

In Indonesia any claims arising from harm of food would likely be brought as a tort action under Indonesia's Civil Code, which requires showing that the defendant acted unlawfully with fault, negligence or carelessness, and this act led to the plaintiff's loss.<sup>38</sup> To succeed in a tort action related to food donation, a recipient would need to prove that a food donor or distributor acted unlawfully with fault, negligence, or carelessness and that this unlawful action resulted in the plaintiff's loss or damage.

Unlike many other countries, a growing number of which offer liability protection to encourage food donations, Indonesia does not currently have any type of "Good Samaritan" law protecting food donors or food recovery organizations from civil or criminal liability. Without national legislation providing clear liability limits and protections for food donation, potential donors may prefer to discard rather than donate food and risk liability and reputational harm. Food recovery organizations may also perceive heightened risk when receiving, recovering, and distributing food to beneficiaries.

### **Recommended Policy Actions**

## **1. ENACT LEGISLATION THAT ESTABLISHES CLEAR AND COMPREHENSIVE LIABILITY PROTECTION FOR FOOD DONORS AND FOOD RECOVERY ORGANIZATIONS.**

Donors and food recovery organizations should be protected from civil and criminal liability for food that is in compliance with all applicable laws and regulations and is donated to non-profits or distributed to recipients in good faith. Liability protection for food donation could ease potential donors' fears of liability and help to

ensure that surplus food reaches those in need rather than go to the landfill. In Argentina, for example, comprehensive liability protections apply as long as donations are made in accordance with conditions set forth in the country's Food Donation Law (i.e., donations are made free of charge to a qualified intermediary and benefit populations in need).<sup>39</sup> Argentina affords donors and food recovery organizations a presumption of good faith absent any willful misconduct or negligence resulting in harm to a beneficiary.<sup>40</sup> Indonesia should adopt similar protections for food donors with a broad and clear grant of protection. This protection should not be absolute. The law could maintain that food donors are not protected if they demonstrate recklessness or willful misconduct when handling donated food prior to distribution. The expanded protections should also cover food recovery organizations that comply with the same requirements imposed on food donors and, as part of this protection, should define what constitutes a food recovery organization. Consistent with the recommendations above, the Indonesian legislature should remove the restriction on distributing food past the quality date and extend liability protection to food donated after this date, provided the food is still safe for human consumption.

## Taxes

### Issue Overview

Food donation helps to mitigate the costs of hunger and stimulate the economy, but it can also be expensive, as food donors must allocate time and money to recover, package, store, and transport surplus food that otherwise would be discarded, usually at no cost. Taxes can either help to offset these expenses and create an incentive to donate, or they can create an additional barrier to donation, one which contributes to greater food loss and waste. With respect to tax incentives, corporate donors may be more likely to donate surplus food to food banks if they receive a charitable deduction to offset the cost of transportation and logistics.

Indonesia currently has no specific tax incentives related to food donation. Offering a tax or another financial incentive could encourage businesses to donate food more readily, particularly given the associated costs. Further, a recently enacted and implemented law, Law on Harmonization of Taxation Regulations No. 7 of 2021, updated the country's value-added tax (VAT) regime and may pose a potential barrier to food donation. The VAT is levied at a standard rate of 11% on the delivery of taxable goods at each stage of the supply chain, from production to point of sale.<sup>41</sup> The delivery of taxable goods includes "free gift[s] of taxable goods" and thus includes food donated free of charge.<sup>42</sup> While the previous tax regime exempted staple foods from VAT, the updated law eliminated these exemptions, though regulations have not yet been promulgated.<sup>43</sup> In addition to VAT, food imported for donation is also subject to a 7.5% import duty.<sup>44</sup> The tax on food at the time of donation may create a financial burden on food donors and food recovery organizations, as they must pay input and output VATs consistent with the law. Because businesses do not get a credit for the input VAT they pay when they acquire ingredients, they may face a double burden when donating food.

### Recommended Policy Actions

1.

#### OFFER TAX INCENTIVES FOR FOOD DONATIONS MADE TO FOOD RECOVERY ORGANIZATIONS.

The process of donating food can incur costs to a business related to transportation, logistics, and staff time. Providing a tax credit or deduction could help to offset these costs and increase food donation.

A number of countries have implemented tax incentives in order to encourage food donation. For example, in the United States, taxpayers who donate property that could have otherwise provided them income, including food products, are eligible for a tax deduction. U.S. taxpayers who donate food are eligible for two deductions: one is the general deduction that applies to all charitable contributions and the other is an enhanced tax deduction that offers a higher benefit specifically for qualified food donations.<sup>45</sup>

Indonesia could tailor such a tax incentive program to its needs. For example, the federal government may elect to limit the total credit or deduction that a business can claim in a given tax year. It could do this by either by setting a percentage of the value of donated food that can be claimed or capping the total dollar amount of percentage of income that can be claimed. Indonesia tax law allows deductions for charitable donations to certain causes such as natural disaster relief and social infrastructure.<sup>46</sup> However, the amount of a donation that can be deducted from gross income in a tax year may not be more than 5% of the net income of the previous tax year.<sup>47</sup> Before adopting such limits, the government should balance the benefit with the potential deterrent effect they may have on food donation. However, to ensure donor accountability and food safety, the tax incentive should only be available for donations made to nonprofit organizations.

It should be noted that offering a tax credit for food donations is more likely to encourage donation among smaller donors who may not generate a lot of income during the year. Compared with a tax deduction, which reduces a taxpayer's taxable income and is then used to determine the amount of taxes that must be paid, a tax credit is a direct dollar-for-dollar subtraction from the taxes owed.<sup>48</sup> Tax credits are applied evenly across tax brackets and would therefore have a greater impact for small, low-income businesses than a tax deduction.

## **2. ADJUST THE VALUE-ADDED TAX SO THAT IT DOES NOT POSE A POTENTIAL BARRIER TO DONATION.**

In addition to creating a tax incentive to encourage donation, Indonesia should amend its VAT scheme, either via regulation or additional legislation to exempt donated food. Indonesia's legislature should amend Law 7 of 2021 or the Minister of Finance should promulgate regulations to exclude free donations from the VAT, eliminating "free gift of taxable goods" from the definition of delivery of taxable goods to which the VAT applies. Additionally, the legislature should amend Law 7 of 2021 or the Minister of Finance should promulgate regulations allowing businesses to claim an input VAT paid on food ingredients that were ultimately donated to avoid a tax burden that discourages food donation. These measures could help reduce the tax burden on food donors and food recovery organizations.

## **3. REDUCE OR REMOVE IMPORT DUTY FOR FOOD IMPORTED FOR DONATION.**

Indonesia imposes a duty on imports, including imported food. All imported taxable goods are subject to a 7.5% duty in addition to the 11% VAT.<sup>49</sup> Stakeholders mentioned that this heavy tax burden makes it financially impossible to import food for donation. Indonesia's legislature could pass a law or the Minister of Finance could update its regulations to exempt food imported for donation from the current 7.5% duty.

# **CONCLUSION**

While these Policy Recommendations are intended to help strengthen food donation in Indonesia, they are not exhaustive. Those committed to reducing food loss and waste and promoting food recovery should seek the advice of legal experts, policymakers, and other stakeholders to identify the most effective and feasible policy interventions.

# ENDNOTES

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- <sup>12</sup> Jane Tjahjono and Freida Siregar, *supra* note 9.
- <sup>13</sup> MINISTRY OF NATIONAL DEVELOPMENT PLANNING/BAPPENAS, *supra* note 1 at 13; H.P. Saliem et al., *supra* note 8 at 3.
- <sup>14</sup> MINISTRY OF NATIONAL DEVELOPMENT PLANNING/BAPPENAS, *supra* note 1 at 14; H.P. Saliem et al., *supra* note 8 at 4.
- <sup>15</sup> MINISTRY OF NATIONAL DEVELOPMENT PLANNING/BAPPENAS, *supra* note 1 at 5.
- <sup>16</sup> FOODCYCLE INDONESIA, 2021 ANNUAL REPORT 8 (2022), <https://www.foodcycle.id/annualreport2021> [https://perma.cc/KD9E-5GJK].
- <sup>17</sup> *SOS Bali Social and Environmental Impacts*, SCHOLARS OF SUSTENANCE, <https://www.scholarsofsustenance.org/sosbali-impacts> [https://perma.cc/J9SY-KNKY].
- <sup>18</sup> *GRASP 2030*, IBSCD, <https://ibcsd.or.id/work-program/food-nature/food-loss-and-waste/grasp-2030/>.
- <sup>19</sup> *Id.*
- <sup>20</sup> Law No. 18 of 2012 on Food as amended by Law No. 11 of 2020 regarding Job Creation; Government Regulation No. 86/2019.
- <sup>21</sup> *See e.g.*, Government Regulation No. 86 of 2019, art. 1, § 7 (defining food distribution as including distributing food to the public whether traded or not).
- <sup>22</sup> *Id.* at art. 4.
- <sup>23</sup> Food Safety and Standards (Recovery and Distribution of Surplus Food) Regulations, 2019, Gazette of India, pt. III sec. 4 (Jul. 26, 2019).
- <sup>24</sup> U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-19-407, DATE LABELS ON PACKAGED FOODS: USDA AND FDA COULD TAKE ADDITIONAL STEPS TO REDUCE CONSUMER CONFUSION (2019) <https://www.gao.gov/assets/710/701238.pdf> [https://perma.cc/DNJ4-5VC2].
- <sup>25</sup> HARVARD L. SCH. FOOD L. AND POL'Y CLINIC AND NAT. RES. DEF. COUNCIL, DON'T WASTE, DONATE: ENHANCING FOOD DONATIONS THROUGH FEDERAL POLICY 19 (2017), [https://chlp.org/wp-content/uploads/2013/12/Dont-Waste-Donate\\_-March-2017.pdf](https://chlp.org/wp-content/uploads/2013/12/Dont-Waste-Donate_-March-2017.pdf) [https://perma.cc/G5VM-WYBT].
- <sup>26</sup> BPOM Regulation No. 31 of 2018, art. 34, § 4.
- <sup>27</sup> *Id.* at art. 34.
- <sup>28</sup> Law No. 18 of 2012 on Food as amended by Law No. 11 of 2020 regarding Job Creation, art. 93.
- <sup>29</sup> *Id.* at art. 90, 94 § 2.
- <sup>30</sup> FOOD & AGRIC. ORG. OF THE U.N. (FAO) & WORLD HEALTH ORG. (WHO), CODEX ALIMENTARIUS INTERNATIONAL FOOD STANDARDS: GENERAL STANDARD FOR THE LABELLING OF PREPACKAGED FOODS, CXS 1-1985 (2018), [http://www.fao.org/fao-who-codexalimentarius/sh-proxy/en/?Ink=1&url=https%253A%252F%252Fworkspace.fao.org%252Fsites%252Fcodex%252FS tandards%252FCXS%2B1-1985%252FCXS\\_001e.pdf](http://www.fao.org/fao-who-codexalimentarius/sh-proxy/en/?Ink=1&url=https%253A%252F%252Fworkspace.fao.org%252Fsites%252Fcodex%252FS tandards%252FCXS%2B1-1985%252FCXS_001e.pdf) [https://perma.cc/X3RP-5P5T].
- <sup>31</sup> *Id.*
- <sup>32</sup> Commission Regulation No. 1169/2011 (EU).
- <sup>33</sup> *See* MARKET STUDY ON DATE MARKING AND OTHER INFORMATION PROVIDED ON FOOD LABELS AND FOOD WASTE PREVENTION: FINAL REPORT, EUROPEAN COMMISSION (2018).
- <sup>34</sup> *Release: Companies Commit to Simplify Food Date Labels Worldwide by 2020, Reducing Food Waste*, WORLD RESOURCES INTERNATIONAL (Sept. 20, 2017), <https://www.wri.org/news/2017/09/release-companies-commit-simplify-food-date-labels-worldwide-2020-reducing-food-waste> [https://perma.cc/B442-U24P].
- <sup>35</sup> BPOM Regulation No. 30 of 2017, art. 4(c) (as amended by BPOM Regulation No. 15 of 2020).
- <sup>36</sup> *Indonesia*, OECD ILIBRARY, <https://www.oecd-ilibrary.org/sites/9e2cf2f4-en/index.html?itemId=/content/component/9e2cf2f4-en> [https://perma.cc/VM3L-5549].

- <sup>37</sup> Interviews with stakeholders. Notes on file with authors.
- <sup>38</sup> Law No. 23 of 1847 Indonesian Civil Code, art. 1365.
- <sup>39</sup> Law 25989, Dec. 16, 2004 [30564] B.O. 1 [Argentina], <http://servicios.infoleg.gob.ar/infolegInternet/anexos/100000-104999/102664/texact.htm> [<https://perma.cc/ED5J-EE4H>] amended via the National Plan for Food Loss and Waste (Law No. 27454).
- <sup>40</sup> Law 25989, Dec. 16, 2004 [30564] B.O. 1 [Argentina], <http://servicios.infoleg.gob.ar/infolegInternet/anexos/100000-104999/102664/texact.htm> [<https://perma.cc/ED5J-EE4H>] amended via the National Plan for Food Loss and Waste (Law No. 27454).
- <sup>41</sup> Law No. 7 of 2021 on Harmonization of Taxation Regulations, art. 7.
- <sup>42</sup> Law No. 42 of 2009, art 1A, §1(d); PWC INDONESIA, INDONESIA POCKET TAX BOOK 2022 48-49 (2022), <https://www.pwc.com/id/en/pocket-tax-book/english/pocket-tax-book-2022.pdf> [<https://perma.cc/A3R8-YSMV>].
- <sup>43</sup> Law No. 7 of 2021 on Harmonization of Taxation Regulations, art. 17, § 2.
- <sup>44</sup> Finance Ministerial Regulation (PMK) No.199/2019.
- <sup>45</sup> See I.R.C. § 170.
- <sup>46</sup> Law No. 36 of 2008 on Income Tax, art. 6, § 1.
- <sup>47</sup> Government Regulation No. 93 of 2010, art. 3.
- <sup>48</sup> HARVARD L. SCH. FOOD L. AND POL'Y CLINIC, KEEPING FOOD OUT OF THE LANDFILL: POLICY IDEAS FOR STATES AND LOCALITIES 19–20 (2016) [https://www.chlpi.org/wp-content/uploads/2013/12/Food-Waste-Toolkit\\_Oct-2016\\_smaller.pdf](https://www.chlpi.org/wp-content/uploads/2013/12/Food-Waste-Toolkit_Oct-2016_smaller.pdf) [<https://perma.cc/2CZV-FSF9>].
- <sup>49</sup> Finance Ministerial Regulation (PMK) No.199/2019.



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