

“(1) amounts received from the Administrator of the Small Business Administration in the form of a targeted EIDL advance under section 331 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (title III of division N of Public Law 116-260) [15 U.S.C. 9009b] shall not be included in the gross income of the person that receives such amounts,

“(2) no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied, by reason of the exclusion from gross income provided by paragraph (1), and

“(3) in the case of a partnership or S corporation that receives such amounts—

“(A) any amount excluded from income by reason of paragraph (1) shall be treated as tax exempt income for purposes of sections 705 and 1366 of the Internal Revenue Code of 1986 [26 U.S.C. 705, 1366], and

“(B) the Secretary of the Treasury (or the Secretary’s delegate) shall prescribe rules for determining a partner’s distributive share of any amount described in subparagraph (A) for purposes of section 705 of the Internal Revenue Code of 1986.”

CLARIFICATION OF TAX TREATMENT OF CERTAIN LOAN FORGIVENESS AND OTHER BUSINESS FINANCIAL ASSISTANCE

Funding under this section not included in gross income of recipient, see section 278 of div. N of Pub. L. 116-260, set out as a note under section 9008 of this title.

DEFINITIONS

“Administration” and “Administrator” mean the Small Business Administration and Administrator of the Small Business Administration, see section 302 of div. N of Pub. L. 116-260, set out as a note under section 9001 of this title.

§ 9009c. Support for restaurants

(a) Definitions

In this section:

(1) Administrator

The term “Administrator” means the Administrator of the Small Business Administration.

(2) Affiliated business

The term “affiliated business” means a business in which an eligible entity has an equity or right to profit distributions of not less than 50 percent, or in which an eligible entity has the contractual authority to control the direction of the business, provided that such affiliation shall be determined as of any arrangements or agreements in existence as of March 13, 2020.

(3) Covered period

The term “covered period” means the period—

(A) beginning on February 15, 2020; and

(B) ending on December 31, 2021, or a date to be determined by the Administrator that is not later than 2 years after March 11, 2021.

(4) Eligible entity

The term “eligible entity”—

(A) means a restaurant, food stand, food truck, food cart, caterer, saloon, inn, tavern, bar, lounge, brewpub, tasting room, taproom, licensed facility or premise of a beverage alcohol producer where the public may taste, sample, or purchase products, or other similar place of business in which the public

or patrons assemble for the primary purpose of being served food or drink;

(B) includes an entity described in subparagraph (A) that is located in an airport terminal or that is a Tribally-owned concern; and

(C) does not include—

(i) an entity described in subparagraph (A) that—

(I) is a State or local government-operated business;

(II) as of March 13, 2020, owns or operates (together with any affiliated business) more than 20 locations, regardless of whether those locations do business under the same or multiple names; or

(III) has a pending application for or has received a grant under section 9009a of this title; or

(ii) a publicly-traded company.

(5) Exchange; issuer; security

The terms “exchange”, “issuer”, and “security” have the meanings given those terms in section 78c(a) of this title.

(6) Fund

The term “Fund” means the Restaurant Revitalization Fund established under subsection (b).

(7) Pandemic-related revenue loss

The term “pandemic-related revenue loss” means, with respect to an eligible entity—

(A) except as provided in subparagraphs (B), (C), and (D), the gross receipts, as established using such verification documentation as the Administrator may require, of the eligible entity during 2020 subtracted from the gross receipts of the eligible entity in 2019, if such sum is greater than zero;

(B) if the eligible entity was not in operation for the entirety of 2019—

(i) the difference between—

(I) the product obtained by multiplying the average monthly gross receipts of the eligible entity in 2019 by 12; and

(II) the product obtained by multiplying the average monthly gross receipts of the eligible entity in 2020 by 12; or

(ii) an amount based on a formula determined by the Administrator;

(C) if the eligible entity opened during the period beginning on January 1, 2020, and ending on the day before March 11, 2021—

(i) the expenses described in subsection (c)(5)(A) that were incurred by the eligible entity minus any gross receipts received; or

(ii) an amount based on a formula determined by the Administrator; or

(D) if the eligible entity has not yet opened as of the date of application for a grant under subsection (c), but has incurred expenses described in subsection (c)(5)(A) as of March 11, 2021—

(i) the amount of those expenses; or

(ii) an amount based on a formula determined by the Administrator.

For purposes of this paragraph, the pandemic-related revenue losses for an eligible entity shall be reduced by any amounts received from a covered loan made under paragraph (36) or (37) of section 636(a) of this title in 2020 or 2021.

(8) Payroll costs

The term “payroll costs” has the meaning given the term in section 636(a)(36)(A) of this title, except that such term shall not include—

(A) qualified wages (as defined in subsection (c)(3) of section 2301 of the CARES Act) taken into account in determining the credit allowed under such section 2301; or

(B) premiums taken into account in determining the credit allowed under section 6432 of title 26.

(9) Publicly-traded company

The term “publicly-traded company” means an entity that is majority owned or controlled by an entity that is an issuer, the securities of which are listed on a national securities exchange under section 78f of this title.

(10) Tribally-owned concern

The term “Tribally-owned concern” has the meaning given the term in section 124.3 of title 13, Code of Federal Regulations, or any successor regulation.

(b) Restaurant Revitalization Fund

(1) In general

There is established in the Treasury of the United States a fund to be known as the Restaurant Revitalization Fund.

(2) Appropriations

(A) In general

In addition to amounts otherwise available, there is appropriated to the Restaurant Revitalization Fund for fiscal year 2021, out of any money in the Treasury not otherwise appropriated, \$28,600,000,000, to remain available until expended.

(B) Distribution

(i) In general

Of the amounts made available under subparagraph (A)—

(I) \$5,000,000,000 shall be available to eligible entities with gross receipts during 2019 of not more than \$500,000; and

(II) \$23,600,000,000 shall be available to the Administrator to award grants under subsection (c) in an equitable manner to eligible entities of different sizes based on annual gross receipts.

(ii) Adjustments

The Administrator may make adjustments as necessary to the distribution of funds under clause (i)(II) based on demand and the relative local costs in the markets in which eligible entities operate.

(C) Grants after initial period

Notwithstanding subparagraph (B), on and after the date that is 60 days after March 11, 2021, or another period of time determined by the Administrator, the Administrator may make grants using amounts appro-

priated under subparagraph (A) to any eligible entity regardless of the annual gross receipts of the eligible entity.

(3) Use of funds

The Administrator shall use amounts in the Fund to make grants described in subsection (c).

(c) Restaurant revitalization grants

(1) In general

Except as provided in subsection (b) and paragraph (3), the Administrator shall award grants to eligible entities in the order in which applications are received by the Administrator.

(2) Application

(A) Certification

An eligible entity applying for a grant under this subsection shall make a good faith certification that—

(i) the uncertainty of current economic conditions makes necessary the grant request to support the ongoing operations of the eligible entity; and

(ii) the eligible entity has not applied for or received a grant under section 9009a of this title.

(B) Business identifiers

In accepting applications for grants under this subsection, the Administrator shall prioritize the ability of each applicant to use their existing business identifiers over requiring other forms of registration or identification that may not be common to their industry and imposing additional burdens on applicants.

(3) Priority in awarding grants

(A) In general

During the initial 21-day period in which the Administrator awards grants under this subsection, the Administrator shall prioritize awarding grants to eligible entities that are small business concerns owned and controlled by women (as defined in section 632(n) of this title), small business concerns owned and controlled by veterans (as defined in section 632(q) of this title), or socially and economically disadvantaged small business concerns (as defined in section 637(a)(4)(A) of this title). The Administrator may take such steps as necessary to ensure that eligible entities described in this subparagraph have access to grant funding under this section after the end of such 21-day period.

(B) Certification

For purposes of establishing priority under subparagraph (A), an applicant shall submit a self-certification of eligibility for priority with the grant application.

(4) Grant amount

(A) Aggregate maximum amount

The aggregate amount of grants made to an eligible entity and any affiliated businesses of the eligible entity under this subsection—

- (i) shall not exceed \$10,000,000; and
- (ii) shall be limited to \$5,000,000 per physical location of the eligible entity.

(B) Determination of grant amount

(i) In general

Except as provided in this paragraph, the amount of a grant made to an eligible entity under this subsection shall be equal to the pandemic-related revenue loss of the eligible entity.

(ii) Return to Treasury

Any amount of a grant made under this subsection to an eligible entity based on estimated receipts that is greater than the actual gross receipts of the eligible entity in 2020 shall be returned to the Treasury.

(5) Use of funds

During the covered period, an eligible entity that receives a grant under this subsection may use the grant funds for the following expenses incurred as a direct result of, or during, the COVID-19 pandemic:

(A) Payroll costs.

(B) Payments of principal or interest on any mortgage obligation (which shall not include any prepayment of principal on a mortgage obligation).

(C) Rent payments, including rent under a lease agreement (which shall not include any prepayment of rent).

(D) Utilities.

(E) Maintenance expenses, including—

(i) construction to accommodate outdoor seating; and

(ii) walls, floors, deck surfaces, furniture, fixtures, and equipment.

(F) Supplies, including protective equipment and cleaning materials.

(G) Food and beverage expenses that are within the scope of the normal business practice of the eligible entity before the covered period.

(H) Covered supplier costs, as defined in section 636m(a) of this title (as redesignated, transferred, and amended by section 304(b) of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Public Law 116-260)).

(I) Operational expenses.

(J) Paid sick leave.

(K) Any other expenses that the Administrator determines to be essential to maintaining the eligible entity.

(6) Returning funds

If an eligible entity that receives a grant under this subsection fails to use all grant funds or permanently ceases operations on or before the last day of the covered period, the eligible entity shall return to the Treasury any funds that the eligible entity did not use for the allowable expenses under paragraph (5).

(Pub. L. 117-2, title V, §5003, Mar. 11, 2021, 135 Stat. 85.)

Editorial Notes

REFERENCES IN TEXT

Section 2301 of the CARES Act, referred to in subsec. (a)(8)(A), is section 2301 of Pub. L. 116-136, which is set

out as a note under section 3111 of Title 26, Internal Revenue Code.

CODIFICATION

Section was enacted as part of the American Rescue Plan Act of 2021, and not as part of the CARES Act which in part comprises this chapter.

Statutory Notes and Related Subsidiaries

TAX TREATMENT OF RESTAURANT REVITALIZATION GRANTS

Pub. L. 117-2, title IX, §9673, Mar. 11, 2021, 135 Stat. 184, provided that: “For purposes of the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.]—

“(1) amounts received from the Administrator of the Small Business Administration in the form of a restaurant revitalization grant under section 5003 [15 U.S.C. 9009c] shall not be included in the gross income of the person that receives such amounts,

“(2) no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied, by reason of the exclusion from gross income provided by paragraph (1), and

“(3) in the case of a partnership or S corporation that receives such amounts—

“(A) except as otherwise provided by the Secretary of the Treasury (or the Secretary’s delegate), any amount excluded from income by reason of paragraph (1) shall be treated as tax exempt income for purposes of sections 705 and 1366 of the Internal Revenue Code of 1986 [26 U.S.C. 705, 1366], and

“(B) the Secretary of the Treasury (or the Secretary’s delegate) shall prescribe rules for determining a partner’s distributive share of any amount described in subparagraph (A) for purposes of section 705 of the Internal Revenue Code of 1986.”

§ 9010. Resources and services in languages other than English

(a) In general

The Administrator shall provide the resources and services made available by the Administration to small business concerns in the 10 most commonly spoken languages, other than English, in the United States, which shall include Mandarin, Cantonese, Japanese, and Korean.

(b) Authorization of appropriations

There is authorized to be appropriated to the Administrator \$25,000,000 to carry out this section.

(Pub. L. 116-136, div. A, title I, §1111, Mar. 27, 2020, 134 Stat. 309.)

§ 9011. Subsidy for certain loan payments

(a) Definition of covered loan

In this section, the term “covered loan” means a loan that is—

(1) guaranteed by the Administration under—

(A) section 636(a) of this title—

(i) including a loan made under the Community Advantage Pilot Program of the Administration; and

(ii) excluding a loan made under paragraph (36) of such section 636(a) of this title, as added by section 1102; or

(B) title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.); or

(2) made by an intermediary to a small business concern using loans or grants received under section 636(m) of this title.