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Restaurant Revitalization Fund: What Restaurants, Breweries and Bars Need to Know

The American Rescue Plan Act of 2021, signed into law on March 11, 2021, establishes the "Restaurant Revitalization Fund" (RRF). The RRF earmarks $28.6 billion in grants to restaurants, breweries, bars, caterers and food trucks. The Small Business Administration (SBA) will administer the RRF and provide the grants, which are intended to cover a business's total pandemic-related revenue losses.

Timing

Be ready to act fast: The SBA will award grants to eligible entities in the order that applications are received. Like the first round of the Paycheck Protection Program (PPP), there is expected to be a stampede of applicants when the program opens. The RRF is not yet accepting applications, and no starting date has been set.

For the first 21 days of the RRF, the SBA will prioritize businesses owned by women and veterans, as well as socially and economically disadvantaged businesses.

Eligible Entities

The eligibility criteria is broad. Eligible entities include restaurants, bars, food trucks and carts, caterers, inns, brewpubs, tasting rooms, taprooms and other places of business where the public assembles for the primary purpose of being served food and drink (collectively, a “restaurant”).

The following businesses are excluded from the RRF:

- A publicly traded company;
- A business that owns or operates (together with any affiliated business) more than 20 locations;
- A government-operated business; and
- A business that has applied for or received a "Shuttered Venue Operators" (SVO) grant (which is intended for performing arts, live venues, theaters and the like).

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Size of the Grants

Generally, the grant amount is the difference between the restaurant's 2019 gross receipts and 2020 gross receipts. Critically, however, any pandemic-related revenue losses for a restaurant are reduced by the amount of any PPP loans that the restaurant received.

So, for a restaurant that opened prior to 2019, the calculation is as follows: (2019 gross receipts) - (2020 gross receipts + PPP loans).

There are specific calculations set forth for restaurants that first opened after the start of 2019 – and for restaurants that have not yet opened.

Also, there is a cap: The aggregate amount of grants made to a restaurant and its affiliated businesses cannot exceed $10 million and is limited to $5 million per physical location.

Eligible Expenses

A broad range of categories constitutes eligible expenses:

- Payroll costs (with certain exclusions, such as employee compensation greater than $100,000 annually);
- Principal and interest payments on a mortgage (excluding prepayments);
- Rent payments (excluding prepayments);
- Utilities;
- Maintenance expenses (including walls, floors, deck surfaces, furniture, fixtures and equipment and construction to accommodate outdoor seating);
- Supplies (including personal protective equipment and cleaning materials);
- Normal food and beverage expenses;
- Operational expenses;
- Paid sick leave;
- Certain covered supplier costs (as defined by the SBA under the PPP); and
- Any other expenses the SBA deems essential to maintaining the restaurant.

The restaurant must have incurred the expenses between February 15, 2020 and December 31, 2021. The SBA has the discretion to extend this period through February 15, 2022.

If a restaurant does not fully use the grant funds (including if the restaurant permanently closes) within this timeframe, the unused funds must be returned.

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Certifications

Each restaurant applying for a grant must make a good faith certification that:

- The uncertainty of current economic conditions makes necessary the grant request to support the restaurant's ongoing operations; and
- The restaurant has not applied for or received an SVO grant.

What to Do Right Now?

The RRF was just unveiled, and there will no doubt be changes and updates to the terms as additional guidance and rules are released. While waiting for the program to become active, a restaurant should begin gathering its expense records, financial statements and tax returns.

Unlike the PPP, applications will be submitted directly by the applicant via an SBA portal instead of being submitted by banks. Therefore, the National Restaurant Association has noted that the SBA might require a restaurant to complete certain steps before applying for and receiving a grant:

- Obtaining a Data Universal Numbering System (DUNS) number; and
- Registering with the federal government's System for Award Management (SAM) and furnishing a SAM notarized letter to the Federal Service Desk.

Becoming familiar with these processes would be wise.

If you have any questions about the RRF, please contact Bob Heinrich or your Reinhart attorney.

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