



# Restaurants Act of 2021

## **What does the legislation do?**

The Restaurants Act of 2021 was included in the American Rescue Plan Act of 2021. As added, this particular provision would establish a \$28.6 billion “Restaurant Revitalization Fund” managed by the U.S. Department of Treasury to provide direct grants to eligible entities.

## **When does it begin?**

The Restaurant Fund “covered period” begins on February 15, 2020 and ends on December 31, 2021.

## **Who is eligible to apply for the Restaurant Fund?**

An entity that owns or operates—as of March 13, 2020—20 or fewer establishments (together with any affiliated business), regardless of the type of ownership of the locations and whether those locations do business under the same or multiple names. Franchisees may apply, so long as they do not operate more than 20 units and meet the following criteria:

- Entity is a restaurant, food stand, food truck, food cart, caterer, saloon, inn, tavern, bar, lounge, brewpub, tasting room, taproom, licensed facility or premises 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
- Entities must use their employer identification number when registering to receive a grant.
- Entities must also submit a good faith certification that:
  - Uncertainty of current economic conditions makes necessary the grant request to support ongoing operations.
  - Funds are not for any other purposes other than expenses related to retain workers and maintain payroll; principal or interest on mortgage obligations; rent; utilities; maintenance; supplies required by the public health department; normal food and beverage inventory; debt obligations to suppliers incurred before the covered period; operational expenses; paid sick leave; and any other expenses that Treasury determines to be essential to maintaining operations.

### **How much relief am I eligible to apply for?**

1. The grant is calculated by subtracting the 2020 revenues of the entity from its 2019 revenues.
2. For those not in operation for the entirety of 2019, the entity can receive the difference between 12 times the average monthly revenue for 2019 and revenues of the eligible entity in 2020 or a formula determined by Treasury.
3. For those not in operation until 2020, the entity can receive a grant equal to the amount of expenses incurred by the entity (which would be covered expenses by the grant) minus any revenues received.
4. For entities that did not open as of the application date for a grant but have incurred verified expenses as of that date (which would be covered expenses by the grant), the grant amount would be made to the entity equal to those expenses.

### **What is the max amount of relief an entity can receive?**

An eligible entity may not receive more than one grant, and the aggregate amount of grant funds made to an eligible entity and any affiliate businesses of the eligible entity must not exceed \$10 million or \$5,000,000 per physical location.

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.

### **What if I have received funds from other federal relief programs?**

If a food service or drinking establishment has already received a grant or loan under the Paycheck Protection Program (PPP), the maximum value of the Restaurant Revitalization Grant would be reduced by the amount of PPP funds spent. Likewise, the Employee Retention Tax Credits (ERTC) cannot be used for the same payroll that is paid with grant funds.

### **How are funds received under this program taxed?**

Grants under this program are excluded from gross income and no deduction can be denied or reduced, no tax attribute reduced, and no basis increase denied.

### **How will funds be rolled out?**

The first tranche of grants (during the initial 21-day period) will prioritize marginalized and underrepresented communities, with a focus on women, veterans, and minority-owned and operated eligible entities with annual revenues of less than \$1.5 million.