

COMMENTARY

American Rescue Plan Act of 2021 Provides Pandemic Relief for Struggling Businesses

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June 28, 2021 at 10:42 AM

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COVID-19

In March, the federal government enacted the American Rescue Plan Act of 2021. It assists businesses and individuals struggling financially as a result of the ongoing effects of the pandemic.

As the U.S. economy continues to recover from the pandemic, the act may help many businesses endure and overcome the historic challenges they have faced. While there is still uncertainty as to its impact on our economy, the act nonetheless is a significant piece of federal legislation.

The act created federal relief programs and extended others. They include, among others, restaurant funding, airport sponsor relief, disaster loans, tax relief, and funding for multi-employer pension plans.

The \$28.6 billion Restaurant Revitalization

Fund: Administered by the U.S. Small Business Administration, it provides funding for restaurants, bars, lounges, caterers, food trucks and similar establishments. The program eligibility rules contain two major caveats. First, funding is only available to businesses that have no more than 20 locations and are not publicly traded.

Restaurants and other establishments may use the funds for certain costs incurred between Feb. 15, 2020, and Dec. 31 of this year. These include:

- Payroll costs
- Rent and mortgage payments

- Utilities
- Maintenance expenses, including construction for outdoor seating
- Supplies, including protective equipment and cleaning materials
- Food and beverage expenses
- Operational expenses
- Paid sick leave

The act also permits other “essential” uses determined at the SBA’s discretion. Funds expended no later than March 11, 2023, do not require repayment.

Second, the fund limits how much businesses may receive or retain. For one, the proceeds cannot exceed \$10 million in total or \$5 million per physical location. Further, if a recipient does not use all of the proceeds by the March 2023 deadline or permanently ceases operations on or before the end of this year, the recipient must return the unused funds to the U.S. Treasury.

\$8 billion for assistance to airport sponsors: Like many federal relief programs, this program comes with a condition—amounts must be directly related to the airport. They are not given to an airport that was allocated in excess of four years’ worth of operating funds to prevent, prepare for or respond to the pandemic in fiscal year 2020. The good news is that the funds remain available until Sept. 30, 2024.

\$15 billion added to Economic Injury Disaster Loan program: One-third of the money is earmarked for businesses that have suffered an economic loss of greater than 50% and employ 10 or fewer employees. Generally, loans are available to applicants in the U.S. or a designated

territory that suffered working capital losses due to the pandemic and fall within one of the following categories:

- Businesses
- Cooperatives or agricultural enterprises with 500 or fewer employees
- Small businesses based on the SBA's industry-specific size standards
- Private nonprofits, with limited exceptions
- Faith-based organizations
- Sole proprietorships or independent contractors

Proceeds can be used for working capital and normal operating expenses. Unlike the Restaurant Revitalization Fund, these loans require repayment upon maturity, defined as 30 years from the date of advancement of the funds. The interest rate is set at below 4%, with no prepayment penalty or fees.

Employee Retention Credit extension: The refundable tax credit is equal to 50% of qualified wages, including qualified health plan expenses. The program is available to employers that had:

- Operations during an applicable quarter fully or partially suspended due to orders from a governmental authority limiting commerce, travel, or gatherings due to COVID-19
- Gross receipts during that quarter of less than 80% of the gross receipts for the corresponding quarter in 2019, or began operations after Feb. 15, 2020
- Average annual gross receipts of no more than \$1 million for each of the three taxable years before the applicable quarter.

Eligible employers can offset their current payroll tax liabilities by up to \$7,000 per employee per quarter until the end of this year.

Paid sick-leave credit extension: Previously provided under the Families First Coronavirus Response Act, eligible small and midsize businesses have offered paid leave to employees who are sick or quarantining. Those businesses can receive credits up to \$5,000 of qualifying employment taxes paid between April 1-Sept. 30.

Support for financially troubled, multi-employer pension plans: The Pension Benefit Guaranty Corporation, the federal agency tasked with administering the program, can make lump-sum payments to eligible multi-employer plans facing critical and/or declining financial status. The money will enable them to continue to pay benefits. Eligible plans need not repay this financial assistance.

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