

(i) take into consideration the extent of the circumstances relating to the spread of COVID-19, or similar occurrences, that affect minority business enterprises located in the areas covered by minority business centers and minority chambers of commerce, particularly in rural areas or economically distressed areas;

(ii) generally follow the use of funds outlined in paragraph (2), but shall not restrict the activities of minority business centers and minority chambers of commerce in responding to unique situations; and

(iii) encourage minority business centers and minority chambers of commerce to develop and provide services to minority business enterprises.

(B) Public availability

The Agency shall make publicly available the methodology by which the Agency, minority business centers, and minority chambers of commerce jointly develop the metrics and goals described in subparagraph (A).

(c) Waivers

(1) In general

Notwithstanding any other provision of law or regulation, the Agency may, during the 3-month period that begins on March 27, 2020, waive any matching requirement imposed on a minority business center or a specialty center of the Agency under a cooperative agreement between such a center and the Agency if the applicable center is unable to raise funds, or has suffered a loss of revenue, because of the effects of COVID-19.

(2) Remaining compliant

Notwithstanding any provision of a cooperative agreement between the Agency and a minority business center, if, during the period beginning on March 27, 2020, and ending on September 30, 2021, such a center decides not to collect fees because of the economic consequences of COVID-19, the center shall be considered to be in compliance with that agreement if—

(A) the center notifies the Agency with respect to that decision, which the center may provide through electronic mail; and

(B) the Agency, not later than 15 days after the date on which the center provides notice to the Agency under subparagraph (A)—

(i) confirms receipt of the notification under subparagraph (A); and

(ii) accepts the decision of the center.

(d) Report

Not later than 6 months after March 27, 2020, and annually thereafter, the Agency shall submit to the Committee on Small Business and Entrepreneurship and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Small Business and the Committee on Energy and Commerce of the House of Representatives a report that describes—

(1) with respect to the period covered by the initial report—

(A) the programs and services developed and provided by the Agency, minority business centers, and minority chambers of commerce under subsection (b); and

(B) the initial efforts to provide those services under subsection (b); and

(2) with respect to subsequent years covered by the report—

(A)¹ with respect to the grant program under subsection (b)—

(i) the efforts of the Agency, minority business centers, and minority chambers of commerce to develop services to assist minority business enterprises;

(ii) the challenges faced by owners of minority business enterprises in accessing services provided by the Agency, minority business centers, and minority chambers of commerce;

(iii) the number of unique minority business enterprises that were served by the Agency, minority business centers, or minority chambers of commerce; and

(iv) other relevant outcome performance data with respect to minority business enterprises, including the number of employees affected, the effect on sales, the disruptions of supply chains, and the efforts made by the Agency, minority business centers, and minority chambers of commerce to mitigate these effects.

(e) Authorization of appropriations

There is authorized to be appropriated \$10,000,000 to carry out this section, to remain available until expended.

(Pub. L. 116-136, div. A, title I, §1108, Mar. 27, 2020, 134 Stat. 302.)

§ 9008. United States Treasury program management authority

(a) Definitions

In this section—

(1) the terms “appropriate Federal banking agency” and “insured depository institution” have the meanings given those terms in section 1813 of title 12;

(2) the term “insured credit union” has the meaning given the term in section 1752 of title 12; and

(3) the term “Secretary” means the Secretary of the Treasury.

(b) Authority to include additional financial institutions

The Department of the Treasury, in consultation with the Administrator, and the Chairman of the Farm Credit Administration shall establish criteria for insured depository institutions, insured credit unions, institutions of the Farm Credit System chartered under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), and other lenders that do not already participate in lending under programs of the Administration, to participate in the paycheck protection program to provide loans under this section until the date on which the national emergency declared by the President under the National Emer-

¹ So in original. No subpar. (B) has been enacted.

gencies Act (50 U.S.C. 1601 et seq.) with respect to the Coronavirus Disease 2019 (COVID-19) expires.

(c) Safety and soundness

An insured depository institution, insured credit union, institution of the Farm Credit System chartered under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), or other lender may only participate in the program established under this section if participation does not affect the safety and soundness of the institution or lender, as determined by the Secretary in consultation with the appropriate Federal banking agencies or the National Credit Union Administration Board, as applicable.

(d) Regulations for lenders and loans

(1) In general

The Secretary may issue regulations and guidance as necessary to carry out the purposes of this section, including to—

(A) allow additional lenders to originate loans under this section; and

(B) establish terms and conditions for loans under this section, including terms and conditions concerning compensation, underwriting standards, interest rates, and maturity.

(2) Requirements

The terms and conditions established under paragraph (1) shall provide for the following:

(A) A rate of interest that does not exceed the maximum permissible rate of interest available on a loan of comparable maturity under paragraph (36) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)), as added by section 1102 of this Act.

(B) Terms and conditions that, to the maximum extent practicable, are consistent with the terms and conditions required under the following provisions of paragraph (36) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)), as added by section 1102 of this Act:

(i) Subparagraph (D), pertaining to borrower eligibility.

(ii) Subparagraph (E), pertaining to the maximum loan amount.

(iii) Subparagraph (F)(i), pertaining to allowable uses of program loans.

(iv) Subparagraph (H), pertaining to fee waivers.

(v) Subparagraph (M), pertaining to loan deferment.

(C) A guarantee percentage that, to the maximum extent practicable, is consistent with the guarantee percentage required under subparagraph (F) of section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)), as added by section 1102 of this Act.

(D) Loan forgiveness under terms and conditions that, to the maximum extent practicable, is consistent with the terms and conditions for loan forgiveness under section 7A of the Small Business Act [15 U.S.C. 636m].

(e) Additional regulations generally

The Secretary may issue regulations and guidance as necessary to carry out the purposes of

this section, including to allow additional lenders to originate loans under this title¹ and to establish terms and conditions such as compensation, underwriting standards, interest rates, and maturity for under² this section.

(f) Certification

As a condition of receiving a loan under this section, a borrower shall certify under terms acceptable to the Secretary that the borrower—

(1) does not have an application pending for a loan under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) for the same purpose; and

(2) has not received such a loan during the period beginning on February 15, 2020 and ending on December 31, 2020.

(g) Opt-in for SBA qualified lenders

Lenders qualified to participate as a lender under 7(a)³ of the Small Business Act (15 U.S.C. 636(a)) may elect to participate in the paycheck protection program under the criteria, terms, and conditions established under this section. Such participation shall not preclude the lenders from continuing participation as a lender under section 7(a) of the Small Business Act (15 U.S.C. 636(a)).

(h) Program administration

With guidance from the Secretary, the Administrator shall administer the program established under this section, including the making and purchasing of guarantees on loans under the program, until the date on which the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.) with respect to the Coronavirus Disease 2019 (COVID-19) expires.

(i) Criminal penalties

A loan under this section shall be deemed to be a loan under the Small Business Act (15 U.S.C. 631 et seq.) for purposes of section 16 of such Act (15 U.S.C. 645).

(Pub. L. 116-136, div. A, title I, §1109, Mar. 27, 2020, 134 Stat. 304; Pub. L. 116-260, div. N, title III, §304(b)(1)(C)(i), Dec. 27, 2020, 134 Stat. 1994.)

Editorial Notes

REFERENCES IN TEXT

The Farm Credit Act of 1971, referred to in subsecs. (b) and (c), is Pub. L. 92-181, Dec. 10, 1971, 85 Stat. 583, which is classified principally to chapter 23 (§2001 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of Title 12 and Tables.

The National Emergencies Act, referred to in subsecs. (b) and (h), is Pub. L. 94-412, Sept. 14, 1976, 90 Stat. 1255, which is classified principally to chapter 34 (§1601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

Section 1102 of this Act, referred to in subsec. (d)(2), means section 1102 of div. A of Pub. L. 116-136.

This title, referred to in subsec. (e), is title I of div. A of Pub. L. 116-136, Mar. 27, 2020, 134 Stat. 286, which enacted this subchapter and amended, and enacted provisions set out as notes under, section 636 of this title

¹ See References in Text note below.

² So in original.

³ So in original. Probably should be preceded by “section”.

and several sections in Title 11, Bankruptcy. For complete classification of title I to the Code, see Tables.

The Small Business Act, referred to in subsec. (i), is Pub. L. 85-536, §2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§631 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 631 of this title and Tables.

AMENDMENTS

2020—Subsec. (d)(2)(D). Pub. L. 116-260 substituted “section 7A of the Small Business Act” for “section 9005 of this title”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by Pub. L. 116-260 effective as if included in Pub. L. 116-136 and applicable to any loan made pursuant to section 636(a)(36) of this title before, on, or after Dec. 27, 2020, including forgiveness of such a loan, with provisions relating to exclusion of loans already forgiven, see section 304(c) of Pub. L. 116-260, set out as a note under section 636 of this title.

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

Pub. L. 116-260, div. N, title II, §278, Dec. 27, 2020, 134 Stat. 1980, provided that:

“(a) UNITED STATES TREASURY PROGRAM MANAGEMENT AUTHORITY.—For purposes of the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.]—

“(1) no amount shall be included in the gross income of a borrower by reason of forgiveness of indebtedness described in section 1109(d)(2)(D) of the CARES Act [15 U.S.C. 9008(d)(2)(D)],

“(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 borrower that is a partnership or S corporation—

“(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) except as provided by the Secretary of the Treasury (or the Secretary’s delegate), any increase in the adjusted basis of a partner’s interest in a partnership under section 705 of the Internal Revenue Code of 1986 with respect to any amount described in subparagraph (A) shall equal the partner’s distributive share of deductions resulting from costs giving rise to forgiveness described in section 1109(d)(2)(D) of the CARES Act.

“(b) EMERGENCY EIDL GRANTS AND TARGETED EIDL ADVANCES.—For purposes of the Internal Revenue Code of 1986—

“(1) any advance described in section 1110(e) of the CARES Act [15 U.S.C. 9009(e)] or any funding under section 331 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act [15 U.S.C. 9009b] shall not be included in the gross income of the person that receives such advance or funding,

“(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 advance or funding—

“(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, 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.

“(c) SUBSIDY FOR CERTAIN LOAN PAYMENTS.—For purposes of the Internal Revenue Code of 1986—

“(1) any payment described in section 1112(c) of the CARES Act [15 U.S.C. 9011(c)] shall not be included in the gross income of the person on whose behalf such payment is made,

“(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 on whose behalf of a payment described in section 1112(c) of the CARES Act is made—

“(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, and

“(B) except as provided by the Secretary of the Treasury (or the Secretary’s delegate), any increase in the adjusted basis of a partner’s interest in a partnership under section 705 of the Internal Revenue Code of 1986 with respect to any amount described in subparagraph (A) shall equal the sum of the partner’s distributive share of deductions resulting from interest and fees described in section 1112(c) of the CARES Act and the partner’s share, as determined under section 752 of the Internal Revenue Code of 1986, of principal described in section 1112(c) of the CARES Act.

“(d) GRANTS FOR SHUTTERED VENUE OPERATORS.—For purposes of the Internal Revenue Code of 1986—

“(1) any grant made under section 324 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act [15 U.S.C. 9009a] shall not be included in the gross income of the person that receives such grant,

“(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 grant—

“(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, 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.

“(e) EFFECTIVE DATES.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, subsections (a), (b), and (c) shall apply to taxable years ending after the date of the enactment of the CARES Act [Pub. L. 116-136, approved Mar. 27, 2020].

“(2) GRANTS FOR SHUTTERED VENUE OPERATORS; TARGETED EIDL ADVANCES.—Subsection (d), and so much of subsection (b) as relates to funding under section 331 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, shall apply to taxable years ending after the date of the enactment of this Act [Dec. 27, 2020].”

§ 9009. Emergency EIDL grants

(a) Definitions

In this section—

(1) the term “covered period” means the period beginning on January 31, 2020 and ending on December 31, 2021; and

(2) the term “eligible entity” means—

(A) a business with not more than 500 employees;

(B) any individual who operates under a sole proprietorship, with or without employees, or as an independent contractor;