

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;

- (C) a cooperative with not more than 500 employees;
- (D) an ESOP (as defined in section 632 of this title) with not more than 500 employees;
- (E) a tribal small business concern, as described in section 657a(b)(2)(C) of this title, with not more than 500 employees; or
- (F) an agricultural enterprise (as defined in section 647(b) of this title¹ with not more than 500 employees.

(b) Eligible entities

During the covered period, in addition to small business concerns, private nonprofit organizations, and small agricultural cooperatives, an eligible entity shall be eligible for a loan made under section 636(b)(2) of this title.

(c) Terms; credit elsewhere

With respect to a loan made under section 636(b)(2) of this title in response to COVID-19 during the covered period, the Administrator shall waive—

- (1) any rules related² the personal guarantee on advances and loans of not more than \$200,000 during the covered period for all applicants;

(2) the requirement that an applicant needs to be in business for the 1-year period before the disaster, except that no waiver may be made for a business that was not in operation on January 31, 2020; and

(3) the requirement in the flush matter following subparagraph (E) of section 636(b)(2) of this title, as so redesignated by subsection (f) of this section,³ that an applicant be unable to obtain credit elsewhere.

(d) Approval and ability to repay for small dollar loans

With respect to a loan made under section 636(b)(2) of this title in response to COVID-19 during the covered period, the Administrator may—

- (1) approve an applicant—
 - (A) based solely on the credit score of the applicant; or
 - (B) by using alternative appropriate methods to determine an applicant's ability to repay; and
- (2) use information from the Department of the Treasury to confirm that—
 - (A) an applicant is eligible to receive such a loan; or
 - (B) the information contained in an application for such a loan is accurate.

(e) Emergency grant

(1) In general

(A) Advances

During the covered period, an entity included for eligibility in subsection (b), including small business concerns, private nonprofit organizations, and small agricultural cooperatives, that applies for a loan under section 636(b)(2) of this title in response to COVID-19 may request that the

Administrator provide an advance that is, subject to paragraph (3), in the amount requested by such applicant to such applicant.

(B) Timing

With respect to each request submitted to the Administrator under subparagraph (A), the Administrator shall, not later than 21 days after the date on which the Administrator receives the request—

- (i) verify whether the entity is an entity that is eligible for a loan made under section 636(b)(2) of this title during the covered period, as described in subsection (b);
- (ii) if the Administrator, under clause (i), verifies that the entity submitting the request is an entity that is eligible, as described in that clause, provide the advance requested by the entity; and
- (iii) with respect to an entity that the Administrator determines is not entitled to receive an advance under this subsection, provide the entity with a notification explaining why the Administrator reached that determination.

(2) Verification

Before disbursing amounts under this subsection, the Administrator shall verify that the applicant is an eligible entity by accepting a self-certification from the applicant under penalty of perjury pursuant to section 1746 of title 28.

(3) Amount

The amount of an advance provided under this subsection shall be not more than \$10,000.

(4) Use of funds

An advance provided under this subsection may be used to address any allowable purpose for a loan made under section 636(b)(2) of this title, including—

- (A) providing paid sick leave to employees unable to work due to the direct effect of the COVID-19;
- (B) maintaining payroll to retain employees during business disruptions or substantial slowdowns;
- (C) meeting increased costs to obtain materials unavailable from the applicant's original source due to interrupted supply chains;
- (D) making rent or mortgage payments; and
- (E) repaying obligations that cannot be met due to revenue losses.

(5) Repayment

An applicant shall not be required to repay any amounts of an advance provided under this subsection, even if subsequently denied a loan under section 636(b)(2) of this title.

(6) Repealed. Pub. L. 116-260, div. N, title III, § 333(c), Dec. 27, 2020, 134 Stat. 2046

(7) Authorization of appropriations

There is authorized to be appropriated to the Administration \$40,000,000,000 to carry out this subsection.

(8) Termination

The authority to carry out grants under this subsection shall terminate on December 31, 2021.

¹ So in original. Probably should be followed by a closing parenthesis.

² So in original. Probably should be followed by "to".

³ See Codification note below.

(9) Statute of limitations

Notwithstanding any other provision of law, any criminal charge or civil enforcement action alleging that a borrower engaged in fraud with respect to the use of an advance received under this subsection shall be filed not later than 10 years after the offense was committed.

(Pub. L. 116-136, div. A, title I, § 1110, Mar. 27, 2020, 134 Stat. 306; Pub. L. 116-139, div. A, § 101(b), (c), Apr. 24, 2020, 134 Stat. 620, 621; Pub. L. 116-260, div. N, title III, §§ 332, 333(c), Dec. 27, 2020, 134 Stat. 2045, 2046; Pub. L. 117-165, § 2(b), Aug. 5, 2022, 136 Stat. 1363.)

Editorial Notes**CODIFICATION**

Section is comprised of section 1110 of Pub. L. 116-136. Subsec. (f) of section 1110 of Pub. L. 116-136 amended section 636 of this title.

AMENDMENTS

2022—Subsec. (e)(9). Pub. L. 117-165 added par. (9).

2020—Subsec. (a)(1). Pub. L. 116-260, § 332(1), substituted “December 31, 2021” for “December 31, 2020”.

Subsec. (a)(2)(F). Pub. L. 116-139, § 101(c), added subpar. (F).

Subsec. (d)(1), (2). Pub. L. 116-260, § 332(2), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

“(1) approve an applicant based solely on the credit score of the applicant and shall not require an applicant to submit a tax return or a tax return transcript for such approval; or

“(2) use alternative appropriate methods to determine an applicant’s ability to repay.”

Subsec. (e)(1). Pub. L. 116-260, § 332(3)(A), designated existing provisions as subpar. (A), inserted heading, struck out “within 3 days after the Administrator receives an application from such applicant” after “to such applicant”, and added subpar. (B).

Subsec. (e)(6). Pub. L. 116-260, § 333(c), struck out par. (6). Text read as follows: “If an applicant that receives an advance under this subsection transfers into, or is approved for, the loan program under section 636(a) of this title, the advance amount shall be reduced from the loan forgiveness amount for a loan for payroll costs made under such section 636(a) of this title.”

Subsec. (e)(7). Pub. L. 116-260, § 332(3)(B), substituted “\$40,000,000,000” for “\$20,000,000,000”.

Pub. L. 116-139, § 101(b), substituted “\$20,000,000,000” for “\$10,000,000,000”.

Subsec. (e)(8). Pub. L. 116-260, § 332(3)(C), substituted “December 31, 2021” for “December 31, 2020”.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2020 AMENDMENT**

Pub. L. 116-260, div. N, title III, § 333(d), Dec. 27, 2020, 134 Stat. 2046, provided that: “The amendment made by subsection (c) [amending this section] shall be effective as if included in the CARES Act (Public Law 116-136; 134 Stat. 281).”

Except as otherwise provided, amendment by Pub. L. 116-260 effective on Dec. 27, 2020, and applicable to loans and grants made on or after Dec. 27, 2020, see section 348 of Pub. L. 116-260, set out as a note under section 636 of this title.

TARGETED EIDL ADVANCE

Pub. L. 117-2, title V, § 5002, Mar. 11, 2021, 135 Stat. 85, provided that:

“(a) DEFINITIONS.—In this section—

“(1) the term ‘Administrator’ means the Administrator of the Small Business Administration; and

“(2) the terms ‘covered entity’ and ‘economic loss’ have the meanings given the terms in section 331(a)

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(a)].

“(b) APPROPRIATIONS.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2021, out of any money in the Treasury not otherwise appropriated, \$15,000,000,000—

“(1) to remain available until expended; and
“(2) of which, the Administrator shall use—

“(A) \$10,000,000,000 to make payments to covered entities that have not received the full amounts to which the covered entities are entitled 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]; and

“(B) \$5,000,000,000 to make payments under section 1110(e) of the CARES Act (15 U.S.C. 9009(e)), each of which shall be—

“(i) made to a covered entity that—

“(I) has suffered an economic loss of greater than 50 percent; and

“(II) employs not more than 10 employees;

“(ii) in an amount that is \$5,000; and

“(iii) with respect to the covered entity to which the payment is made, in addition to any payment made to the covered entity under section 1110(e) of the CARES Act (15 U.S.C. 9009(e)) or 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).”

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

Advance described in subsec. (e) of 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.

REPEAL OF EIDL ADVANCE DEDUCTION

Pub. L. 116-260, div. N, title III, § 333(a), (e), Dec. 27, 2020, 134 Stat. 2046, 2047, provided that:

“(a) DEFINITIONS.—In this section [amending this section and enacting provisions set out as notes under this section]—

“(1) the term ‘covered entity’ means an entity that receives an advance under section 1110(e) of the CARES Act (15 U.S.C. 9009(e)), including an entity that received such an advance before the date of enactment of this Act [Dec. 27, 2020]; and

“(2) the term ‘covered period’ has the meaning given the term in section 1110(a)(1) of the CARES Act (15 U.S.C. 9009(a)(1)), as amended by section 332 of this Act [div. N of Pub. L. 116-260].

“(e) RULEMAKING.—

“(1) IN GENERAL.—Not later than 15 days after the date of enactment of this Act [Dec. 27, 2020], the Administrator [of the Small Business Administration] shall issue rules that ensure the equal treatment of all covered entities with respect to the amendment made by subsection (c) [amending this section], which shall include consideration of covered entities that, before the date of enactment of this Act, completed the loan forgiveness process described in section 1110(e)(6) of the CARES Act (15 U.S.C. 9009(e)(6)), as in effect before that date of enactment.

“(2) NOTICE AND COMMENT.— The notice and comment requirements under section 553 of title 5, United States Code, shall not apply with respect to the rules issued under paragraph (1).”

§ 9009a. Grants for shuttered venue operators**(a) Definitions**

In this section:

(1) Eligible person or entity**(A) In general**

The term “eligible person or entity” means a live venue operator or promoter,