

Good News for the Restaurant Industry – and Perhaps Their Landlords and Lenders

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On March 11, 2021, President Biden signed the American Rescue Plan (the Rescue Plan) into law. The \$1.9 trillion package is the third law enacted to aid the economy and struggling Americans as the COVID-19 pandemic continues to have detrimental effects on everyday life. The provisions contained within the Rescue Plan are aimed at providing support to the industries that were hit hardest. Particularly, in order to assist the food service and restaurant industry, the Rescue Plan establishes the Restaurant Revitalization Fund, which provides direct support to that industry in the form of grants.

\$28.6 billion has been allocated to the Restaurant Revitalization Fund, which supplies grants of up to \$10 million per restaurant, with a maximum of up to \$5 million per physical location. Those grants will be issued by the Small Business Administration (SBA) and are based on revenue losses incurred during the pandemic. Restaurants and similar entities will be eligible if they own or operate twenty or fewer locations and "are considered to have a primary purpose...of serv[ing] food or drink." In calculating the potential amount of grant funds a restaurant may receive, businesses are entitled to a value equal to the difference between their 2020 gross receipts and their 2019 gross receipts, otherwise known as the Pandemic-Related Revenue Loss.

Additionally, several modified calculations are provided for certain circumstances, such as for instances when restaurants have not been in operation for the entirety of 2019. If a restaurant opened during 2019, the maximum fund amount is equal to the difference between 12 times the average monthly gross receipts for 2019 and the average monthly gross receipts for 2020. For restaurants that opened in 2020, the fund amount is the amount of eligible expenses subtracted by a restaurant's gross receipts. Further, in instances where a restaurant has opened during 2021, then the grant amount is simply the amount of incurred expenses. However, all these calculations are subject to change by the Small Business Administration.

When grants are received, restaurants may apply them to all "eligible expenses" incurred from February 15, 2020 to December 31, 2021, or a date to be determined by the SBA not later than two years after the passage of the Rescue Plan. Eligible funds include: payroll; principal or interest on mortgage obligations; rent; utilities; maintenance; supplies; food and beverage inventory; covered supplier costs; operations expenses; paid sick leave; and any other expenses the SBA determines to be essential to operations.

The grants provided by the Restaurant Revitalization Fund will provide a much-needed cash infusion into the restaurant industry. This will have a significant positive impact on commercial real estate for lenders and landlords, as restaurants will be able to catch up on payments if they are in arrears, and maintain or resume operations.

If you have questions, please contact Jared A. Sheinberg (sheinbergj@whiteandwilliams.com; 215.864.6284), Nancy Sabol Frantz (frantznc@whiteandwilliams.com; 215.864.7026) or another member of our Real Estate and Finance Groups.

As we continue to monitor the novel coronavirus (COVID-19), White and Williams lawyers are working collaboratively to stay current on developments and counsel clients through the various legal and business issues that may arise across a variety of sectors. Read all of the updates [here](#).

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