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**Covid-19**

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**Executive Summary of  
New Shuttered Venue Operator (SVO)  
Grant Program**

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## Today's Topics

- Overview of Shuttered Venue Operator (SVO) Grant Program
- Potentially Eligible Grant Recipients
- Calculation of Maximum Grant Amount
- Supplemental Grants
- Eligible Expenses
- Prohibited Expenses
- Prioritization of Grant Awards
- Tax Considerations

## Overview of SVO Grant Program

- New Small Business Administration (SBA) program
  - \$15 billion in total appropriations authorized by latest stimulus bill
  - For first 60 days, \$2 billion reserved for those with 50 or fewer FTEs
- While there are some similarities, the SVO grant program is not the same as the PPP
  - Banks/lenders likely not involved in SVO grant process, since the grants are not loans (unlike PPP funds)
  - Maximum grant amount calculation is different than maximum PPP loan amount calculation (based on revenues rather than payroll)
  - Different categories of eligible recipients and eligible expenses

## Potentially Eligible SVO Grant Recipients

- Live venue operators or promoters
- Theatrical producers
- Live performing arts organization operators
- Certain museum operators
- Motion picture / movie theater operators
- Talent representatives
- There are *detailed* criteria for qualifying as one of these potentially eligible recipients
  - A non-exhaustive summary of key requirements follows

## Live Performance Venues

- Must have defined performance and audience spaces, mixing equipment, a public address system and a lighting rig
- Must engage one or more individuals to carry out at least two of the following roles: sound engineer, booker, promoter, stage manager, security, box office manager
- There must be a paid ticket or cover charge to attend most performances
  - Exception for non-profits with paid (non-volunteer) staff
- Artists must be paid “fairly” and not perform mainly for tips
- Performances must be marketed through specified channels

## Motion Picture / Movie Theaters

- Must have at least one auditorium that includes a screen and fixed audience seating
- Must have a projection space with at least one projector
- Paid ticket structure for attendance
- Movie / film showings must be marketed through specified channels

## Museums

- Serving as a museum is the “principal business activity”
- Must have indoor exhibition spaces that have been subject to COVID-related occupancy restrictions
- Must have at least one auditorium, theater or performance or lecture hall with fixed audience seating and regular programming
- Cannot be a for-profit entity

## Talent Representatives

- Must be an agent or manager engaged in representing and managing artists or entertainers for at least 70% of their operations
- Must book or represent musicians, comedians, actors or similar performing artists primarily at live events in venues or at festivals
- Must represent performers that are paid based on the number of tickets sold or on a similar basis



## Additional Eligibility Requirements

- To be eligible, a grant recipient must have:
  - Been “fully operational” on February 29, 2020 and
  - Experienced a 25% reduction in “gross earned revenue” during any quarter of 2020 compared to the corresponding quarter in 2019
- As of the date of the grant, the recipient must intend to reopen or resume operations when possible (or have already reopened or resumed operations)
- The recipient cannot:
  - Be owned or controlled by a publicly-traded company
  - Have received 10%+ of its 2019 gross revenue from Federal funding

## Additional Eligibility Requirements (Cont.)

- Grant recipient cannot have, or be majority owned or controlled by another entity that has, more than two of the following characteristics:
  - Owning or operating venues in more than one country
  - Owning or operating venues in more than ten states
  - Employing more than 500 FTEs as of February 29, 2020
- Grant recipient cannot have received a PPP loan after December 27, 2020
  - Can only pursue SVO grant or PPP loan (not both)
  - However, loans from the initial PPP round are not disqualifying

## Additional Eligibility Requirements (Cont.)

- Grant recipients must make the same “need” certification as PPP loan recipients:
  - Good faith certification that the uncertainty of current economic conditions makes necessary the grant to support the ongoing operations of the grant recipient
- Grant recipient cannot be in the business of promoting, producing, marketing or exhibiting content of a “prurient sexual nature”
- Maximum of five affiliated entities may receive grants

## Calculation of Maximum Grant Amount

- Initial SVO grants will generally equal 45% of the “gross earned revenue” of the recipient during 2019
  - Subject to a \$10 million cap per grant recipient
  - For museum operators, the \$10 million cap is applied to all museums operated by the same museum operator
- Special calculation rule for eligible recipients that commenced operations during 2019, since they would not have a full year of “gross earned revenue”

## Supplemental Grants

- SBA may make supplemental grants to prior SVO grant recipients
- In general, to be eligible for a supplemental grant, Q1 2021 revenues must be at least 70% less than Q1 2019 revenues
- Amount of supplemental grant would generally be equal to 50% of the initial SVO grant
  - However, the total amount of the initial grant plus any supplemental grant may not exceed \$10 million, in the aggregate
- No supplemental grants will be awarded until all initial SVO grant requests submitted during the first 60 days have been processed

## Eligible Expenses

- Eligible expenses are similar (but not identical) to forgivable PPP expenses: (i) payroll costs; (ii) rent obligations; (iii) utility payments; (iv) scheduled mortgage interest and principal payments; (v) scheduled interest and principal payments on ordinary course debt; (vi) worker protection expenditures; (vii) up to \$100,000 for independent contractor payments; plus (viii) other “ordinary and necessary” business expenses (numerous examples provided in legislation)
- Grants may be used for eligible expenses incurred from March 1, 2020 through December 31, 2021
  - The end date for incurring eligible expenses is extended to June 30, 2022 for those that receive supplemental SVO grants



## Prohibited Expenses

- Real estate purchases
- Payments on debt originated after February 15, 2020
- Investments or re-lending
- Political contributions or expenditures
- Any other use prohibited by the SBA

## Prioritization of Grant Awards

- **First Priority:** During the first 14-day period, SBA will make grants only to entities that experienced a 90%+ decline in revenue during the period from April 1 - December 31, 2020 compared to the corresponding period in 2019
- **Second Priority:** During the next 14-day period, SBA will make grants only to entities that experienced a 70%+ decline in revenue based on the same time periods as above
- After the first 28 days, any eligible recipient may receive a grant
- CARES Act revenue does not count toward these calculations
- Revenue should be determined using accrual accounting

## Tax Considerations

- Similar to the PPP, the stimulus legislation provides that the SVO grant is not taxable to the recipient
- Also like the PPP, the legislation permits federal deductibility of expenses funded by SVO grants to the same extent they would be deductible in the absence of SVO grant funding
- However, states do not necessarily need to adopt the same approach as the federal government, so there may be some state or local level tax exposure resulting from SVO grants

## Cautions / Warnings

- For those not closely following the PPP:
  - Be aware that participation in SVO grant program will likely become public knowledge through government reports and/or FOIA requests
  - Be mindful that Congress has also appropriated significant funding to SBA to monitor for fraud, misuse of funds, misrepresentations and similar issues for which there may be significant civil or criminal fines or other sanctions
- Maintain detailed records of eligibility for SVO program, amount of grant, use of funds and various certifications (especially the “need” certification)

## Conclusions

- SBA will need some time to “stand up” the SVO grant program, which will be more complicated than restarting the PPP
- Expect SBA to issue interim final rules and FAQs that may change or color the interpretation of the legislation or even impose additional limitations or requirements
- Collect information to establish eligibility for SVO grants and, if applicable, priority for one of the first two funding rounds
- Consult counsel, accountants and/or financial advisors if you have questions or concerns about your specific circumstances



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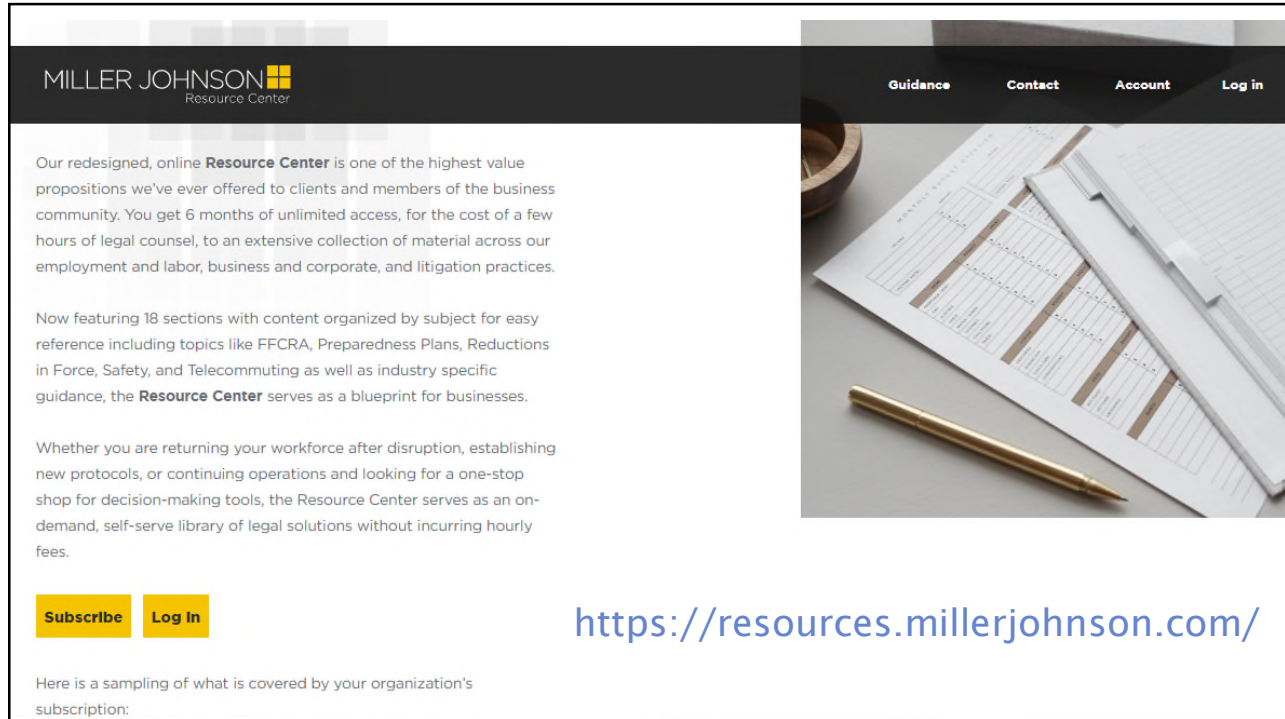
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