



Many of you asked for us to explain the paying taxes situation regarding your CERTS funding. We have recently contacted RSM, one of the nation's largest tax firms, to look into the requirement and this is what we have been told:

In reviewing the terms and conditions of the CERTS program, the restrictions on the use of the funds do not appear to be significant enough to cause the approval/receipt of the grant amount to be excluded from taxable income until the taxpayer spends the funds on required amounts. The courts have generally interpreted that restrictions on the taxpayer's use of the funds must be substantial enough that they effectively deprive the taxpayer of the economic benefit of possessing the funds. As the taxpayer can spend the grant amounts on the following, it does not appear the use of the funds are so restricted that the taxpayer cannot economically benefit from the possession of the funds.

**Eligible Use of Funds.** Subject to other rules and conditions to be included in the grant agreement, grantees may use grant funds for operating expenses, including but not limited to:

- payment of payroll costs and compensation of returning employees for lost pay and benefits during the COVID-19 pandemic
- the acquisition of services, personal protective equipment, and other measures needed to protect workers and customers from COVID-19
- operations and maintenance of existing capital equipment and facilities, such as rent, leases, insurance, and interest on regularly scheduled debt service
- principal on a debt obligation incurred during the COIVD-19 pandemic for the direct purpose of maintaining the payment of payroll costs during the COVID-19 pandemic
- compensation of returning employees for lost pay and benefits during the COVID-19 pandemic, subject to certain offsets and limitations.

We've also reviewed similar grant programs to determine if the programs meet the criteria of an advance payment, which could be eligible for a deferral of the recognition of income. Because the grants do not necessarily require the company to provide goods, services, intellectual property, memberships, or subscriptions to the Treasury Department, the taxpayer does not appear to have a qualifying liability eligible for the deferral method.

**In sum, you must declare CERTS funding in your business 2021 tax filings.**

For more information on the IRS information on the tax treatment of CERTS grants, click [here](#).

If you have any questions, you should contact your tax accountants for more details.