

116TH CONGRESS
2D SESSION

S. 4344

To provide a tax credit to live event venues that provided refunds on tickets for events that were cancelled due to the coronavirus pandemic.

IN THE SENATE OF THE UNITED STATES

JULY 28, 2020

Mr. TESTER (for himself and Mr. CARPER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide a tax credit to live event venues that provided refunds on tickets for events that were cancelled due to the coronavirus pandemic.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Entertainments New
5 Credit Opportunity for Relief and Economic Sustainability
6 Act” or the “ENCORES Act”.

7 **SEC. 2. ESTABLISHMENT OF TAX CREDIT FOR TICKET RE-**
8 **FUNDS ISSUED BY LIVE EVENT VENUES.**

9 (a) IN GENERAL.—Subject to subsections (b) and (c),
10 for purposes of section 38 of the Internal Revenue Code

1 of 1986, in the case of an eligible entity, the live event
2 refund credit shall be treated as a credit listed at the end
3 of subsection (b) of such section. For purposes of this sub-
4 section, the live event refund credit shall be an amount
5 equal to 50 percent of any qualified ticket refund made
6 by the eligible entity during the period—

7 (1) beginning on January 31, 2020, and

8 (2) ending on the date of enactment of this Act.

9 (b) LIMITED CARRYBACK OF CREDIT.—In the case
10 of the live event refund credit allowed under subsection
11 (a)—

12 (1) at the election of the eligible entity—

13 (A) such credit shall not be applied to the
14 taxable year in which the qualified ticket re-
15 funds were made by such taxpayer and the
16 amount of the credit with respect to such re-
17 funds shall be reduced to zero for such taxable
18 year, and

19 (B) the amount of such credit shall be a
20 live event refund credit carryback to either of
21 the 2 taxable years preceding such taxable year,
22 and

23 (2) section 39 of the Internal Revenue Code of
24 1986 shall not apply with respect to such credit.

1 (c) CREDIT MADE AVAILABLE TO TAX EXEMPT EN-
2 TITIES.—

3 (1) IN GENERAL.—In the case of an eligible en-
4 tity which is an organization described in section
5 501(c) of the Internal Revenue Code of 1986 which
6 is exempt from taxation under section 501(a) of
7 such Code, there shall be treated as a credit allow-
8 able under subpart C of part IV of subchapter A of
9 chapter 1 of such Code (and not allowable under
10 subpart D of such part) the lesser of—

11 (A) the amount of the credit determined
12 under subsection (a) with respect to such enti-
13 ty, or

14 (B) the amount of the payroll taxes (as de-
15 fined in section 45R(f)(3) of such Code) of such
16 entity during the calendar year in which the
17 taxable year begins, as determined without re-
18 gard to any credit against such taxes.

19 (2) LIMITED CARRYBACK.—Rules similar to
20 subsection (b)(1) shall apply for purposes of this
21 subsection.

22 (d) DEFINITIONS.—For purposes of this section—

23 (1) ELIGIBLE ENTITY.—

1 (A) IN GENERAL.—The term “eligible enti-
2 ty” means a person engaged in a trade or busi-
3 ness which—

4 (i) includes—

5 (I) organizing, promoting, pro-
6 ducing, or managing live events, and

7 (II) the sale to members of the
8 general public (directly or through a
9 third party) of tickets to attend such
10 events, and

11 (ii) for the preceding taxable year,
12 had an average number of full-time equiva-
13 lent employees (as defined in section
14 45R(d)(2) of the Internal Revenue Code of
15 1986) which is equal to or less than 500.

16 (B) AGGREGATION RULE.—All persons
17 treated as a single employer under subsection
18 (b), (c), (m), or (o) of section 414 of the Inter-
19 nal Revenue Code of 1986 shall be treated as
20 a single taxpayer for purposes of subparagraph
21 (A).

22 (C) EXCLUSION.—The term “eligible enti-
23 ty” shall not include any person engaged in
24 professional football, basketball, baseball, or
25 other professional sport.

1 (2) LIVE EVENT.—The term “live event” means
2 any live concert, comedy show, sporting event, or
3 theatrical production for which tickets were made
4 available to members of the general public by the eli-
5 gible entity not less than 6 weeks prior to such con-
6 cert, show, event, or production.

7 (3) QUALIFIED TICKET REFUND.—The term
8 “qualified ticket refund” means any refund paid by
9 the eligible entity to an individual who purchased a
10 ticket which entitled such individual to attend a live
11 event which was cancelled or postponed due to the
12 virus SARS-CoV-2 or coronavirus disease 2019
13 (COVID-19), provided that—

14 (A) the eligible entity made a good faith
15 effort to offer such individual the option to re-
16 ceive a voucher or discount for any live event at
17 a later date in an amount which was equal to
18 or greater than the price paid by such indi-
19 vidual for such ticket, and

20 (B) such individual elected to receive a re-
21 fund.

22 (4) OTHER TERMS.—Except as otherwise pro-
23 vided under this subsection, any term used in this
24 section which is also used in chapter 1 of the Inter-

1 nal Revenue Code of 1986 shall have the meaning
2 given such term under such chapter.

3 (e) DENIAL OF DOUBLE BENEFIT.—No deduction
4 shall be allowed under any provision of chapter 1 of the
5 Internal Revenue Code of 1986 with respect to any
6 amount taken in account in determining the credit allowed
7 to a taxpayer under this section.

8 (f) REGULATIONS AND GUIDANCE.—The Secretary of
9 the Treasury (or the Secretary's delegate) may prescribe
10 such regulations and other guidance as may be appro-
11 priate or necessary to carry out the purposes of this sec-
12 tion.

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