Opinion: Cornyn, industry leader say ‘Don’t mess with Texas restaurants’

By John Cornyn and Emily Williams Knight Dec. 9, 2020

When Texas restaurants and bars were first ordered to close their doors in mid-March, small business owners and their employees were left up the creek without a paddle. With no tables to wait on or customers to serve, it was impossible to earn a paycheck, cover the rent or even come close to making ends meet. In April, Texas restaurants lost $4.2 billion in sales, and 81 percent of restaurants were forced to lay off or furlough employees.

Congress quickly provided assistance through the job-saving Paycheck Protection Program loans, which gave small businesses the ability to pay their employees and cover business expenses. These loans could be stretched out over a 24-week period, roughly April to September, and portions used for payroll, rent, utilities and other qualifying expenses could be completely forgiven. To date, more than 417,000 Texas businesses have received PPP loans totaling more than $41 billion, saving countless jobs and livelihoods.

One PPP recipient is Houston-based geologist-turned-restauranteur Tracy Vaught of H-Town Restaurant Group. Tracy opened her first restaurant, Backstreet Cafe, in 1983
and has grown the business each year with the help of her husband, award-winning chef Hugo Ortega. While the PPP has helped them weather the storm, H-Town Restaurant Group has struggled to navigate the program’s constantly changing rules — and the U.S. Department of Treasury and Internal Revenue Service just dealt them and all small business owners, not just restaurants, another devastating blow.

The Treasury’s ruling from Nov. 18 restricts a small businesses’ ability to claim tax deductions paid for with the PPP money if there is any “reasonable expectation” of loan forgiveness. The Treasury and the IRS are now restricting small businesses’ ability to claim tax deductions for ordinary business expenses paid for with the PPP money. To provide an idea of the impact this might have on Texas’ small businesses — the average PPP loan in Texas was roughly $99,000. This money went straight to employees’ wages and toward bills to keep the lights on during the initial COVID outbreak — all things that ordinarily are deductible against income to reduce a business’ tax bill. These funds are long gone, and businesses face another unexpected hurdle in the form of a $36,630 tax liability — which effectively makes that $100,000 taxable, despite Congress’s clear intent that it be tax-free.

Nationally, small businesses will owe $120 billion more in taxes if Congress does not act, according to the Wall Street Journal. Rather than the Treasury Department clawing back this relief, we believe this money should go toward retaining or rehiring employees and covering critical business expenses, as Congress intended. Inaction on this issue will cripple small businesses and severely slow down economic recovery just as winter weather ends outdoor seating and reduces dining capacity.

Fortunately, there’s bipartisan legislation to right this wrong. The Small Business Expense Protection Act will clarify Congress’ intent and ensure businesses are still able to deduct these business expenses as usual. The bill has three dozen bipartisan cosponsors, and this fix won’t cost one more dollar of federal money than expected because this was Congress’ intent all along.

Restaurants operate at the center of an economic ecosystem, with farmers, ranchers, wineries, brewers, distillers, maintenance and delivery companies, and all their families relying on a thriving restaurant industry. PPP forgiveness and deductions should be accelerated, not obstructed.

The National Restaurant Association estimates that at least 100,000 restaurants are now closed, about 1 in 6 nationwide. Restaurants are on track to lose $240 billion in
sales by the end of the year, and 40 percent of restaurant owners expect to close in six months without additional federal support, not to mention unforeseen taxes.

It’s time for Congress to pass the Small Business Expense Protection Act to safeguard small businesses’ tax deductions during this unprecedented pandemic. Texas small business owners saw the Paycheck Protection Program as a lifeline during this incredibly challenging time — let’s not make them regret grabbing on.

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