

CARES Act BULLETIN #CR-05 (June 10, 2020)

Welcome Relief for PPP Participants Under the
Paycheck Protection Flexibility Act

On June 5, 2020, President Trump signed the Paycheck Protection Program Flexibility Act of 2020. This legislation will bring much needed adjustments to the Paycheck Protection Program (PPP).

In short, the original program gave recipients eight weeks to use the loan proceeds for payroll costs, including benefits, and mortgage interest, rent and utilities. Due to the severity of the pandemic and business being unable to open as a result of governmental orders, it became apparent that the eight week period would not be enough time for businesses to use the funds in the spirit of the program.

Here is a summary of the main changes under the Act:

- The covered period to use the loan proceeds is extended from eight weeks to twenty-four weeks. The period begins on the date the loan proceeds are received and ends on the earlier of (1) 24 weeks after origination; OR (2) December 31, 2020.
- The requirement to spend 75% of payroll costs is lowered to 60%. If a borrower uses less than 60% of the loan amount for payroll costs, the borrower will continue to be eligible for partial loan forgiveness.
- Borrowers previously had until June 30th to restore their workforce to pre-pandemic levels. This is now extended to December 31, 2020.
- There are two new exceptions to allow borrowers to reach full forgiveness, even if they are unable to fully restore their workforce. The exceptions are based on a business being unable to rehire qualified employees or returning to the same level of business operations as before February 15, 2020 due to COVID-19 restrictions.
- Loans made after the enactment date of this legislation will have a five year maturity, as opposed to the current two year maturity. The Act allows that lenders and borrowers of existing loans may mutually agree to modify terms of a covered loan.
- Borrowers were previously ineligible to defer the employer's share of FICA payroll taxes for two years. This Act has eliminated that restriction. PPP program participants may now defer these 2020 taxes and pay half of the amount in 2021 and the remainder in 2022.

These positive changes to the program should make it easier for businesses to use the funds for their intended purposes and be able to achieve the requisite level of forgiveness.

If you have questions regarding these updates, please contact us.

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