

Paycheck Protection Program Flexibility Act

Last night, on June 3, 2020, the Senate passed a bill which was passed in the House last week to provide flexibility for the Paycheck Protection Program. It is expected the President will sign the Bill. This Bill contains language which offers some additional important flexibility for the Paycheck Protection Program.

The provisions included are:

1. Extends the period of time for recipients to spend the funds received from eight weeks to twenty-four weeks, but no later than December 31, 2020. Recipients can elect to retain the eight-week period if they choose.
2. Payroll costs must be at least 60% of the funds received rather than the previous 75%. This allows recipients to spend up to 40% of the funds for rent, utilities and mortgage interest.
3. The Bill extends any resulting loans for funds not spent, to a five-year term vs. the previous two- year terms by mutual agreement between lender & borrowers.
4. The Bill allows for the deferral period for payments on any resulting PPP loan until the date on which the amount of forgiveness is received from the SBA which would in most cases be significantly longer than the previously six-month period.
5. The deadline for rehiring employees has now been extended beyond the previous June 30th date up to December 31st and clarifies exemptions for recipients who were unable to rehire employees.
6. PPP recipients are now able to defer the payment of the employer's share of the social security tax (6.2%) with 50% now payable on December 31, 2021 and 50% due on December 31, 2022.

A few of the questions raised under the new bill:

1. Will the banks/SBA be willing to change the loan terms to a five-year loan now for recipients who have already signed documents with two-year terms?
2. Is the 60/40% parameters now an all or nothing calculation? This will be important!
3. Is the cap on annualized compensation forgiven now \$46,153 based on 24 weeks? (\$100,000 divided by 52 weeks times 24 weeks)
4. Will a recipient be able to apply for forgiveness at the end of the 24 weeks or will they need to now wait until December 31, 2020?

PPP Loan Application Deadline is June 30, 2020

For any companies who have not yet applied for the PPP loan, but would now consider applying with the broadened forgiveness criteria effective with this latest legislation – be aware that the Senate clarifies that the loan application period ends June 30, 2020. That program deadline has not been extended.

This is a short summary of what is contained in the bill. It does raise significant questions and we will let you know as these are clarified.

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