

New and Significant Changes to PPP Loan Forgiveness Rules

The Senate on Wednesday evening, June 3, 2020, passed by voice vote a House-passed Paycheck Protection Program reform bill, which was signed by President Donald Trump. The legislation, called the **Paycheck Protection Program Flexibility Act**, is intended to make loans more accessible and beneficial to small businesses.

The most significant changes are as follows:

- PPP borrowers can choose to extend the eight-week covered period to 24 weeks, or they can keep the original eight-week covered period. This flexibility is designed to make it easier for more borrowers to reach full, or almost full, forgiveness.
- It remains uncertain how the maximum compensation eligible for forgiveness of owner-employees of S & C corporations, self-employed partners of partnerships and LLCs and self-employed individuals (Schedule C) will be affected by the law. Before these changes became law, compensation eligible for forgiveness was limited to 8/52 of the lesser of \$100,000 or 2019 earnings/compensation. Thus, the maximum compensation eligible for forgiveness for these individuals is \$15,385. It remains to be seen if the new maximum will be increased to \$46,154 ($24/52 \times \$100,000 = \$46,154$).
- The required minimum payroll expenditure component of the PPP loan proceeds drops to 60% from 75%. However, this comes with the requirement that borrowers must spend at least 60% on payroll or **none** of the loan will be forgiven. Previously, a borrower was required to reduce the amount eligible for forgiveness if less than 75% of eligible funds were used for payroll costs, but forgiveness was not eliminated if the 75% threshold was not met. Now the 60% threshold must be met for any forgiveness to be available.
- Borrowers can use the expanded 24-week covered period to restore their workforce levels and wages to the pre-pandemic levels required for full forgiveness. This must be done by December 31, 2020, a change from the previous deadline of June 30, with the original 8-week covered period. If you retain the 8-week covered period, the deadline remains June 30, 2020.
- The Paycheck Protection Program Flexibility Act includes two new exceptions allowing borrowers to achieve full PPP loan forgiveness even if they do not fully restore their workforce. Previous guidance already allowed borrowers to exclude

from those calculations employees who turned down good faith offers to be rehired at the same hours and wages as before the pandemic. The new bill allows borrowers adjustments if they could not find qualified employees or were unable to restore business operations to February 15, 2020 levels due to COVID-19 related operating restrictions. This may be particularly helpful to restaurant, travel related and personal care businesses that are just beginning to reopen in our geographic region.

- Borrowers now have five years to repay the loan instead of two. The interest rate remains at 1%.
- The bill allows businesses that took a PPP loan to also delay payment of their 2020 federal payroll taxes, which was previously prohibited under the CARES Act.

Gold Gerstein Group LLC continues to monitor the impact of these complex, challenging and constantly changing rules for our clients. We will continue to provide updates as warranted. We anticipate more details to come when new guidance and final regulations are provided. Many of you may have noticed that our updated and expanded PPP Loan Forgiveness Calculator was uploaded to our website hours before the Senate passed and the President signed this new legislation. We will once again update the calculator and release it for your use upon modifying it for required changes under the new law.

This information has been provided by Gold Gerstein Group, LLC.

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