



Loosened Restrictions on Use and Forgiveness of PPP Loans; Loans Still Available

Syracuse ♦ Ithaca ♦ New York City

June 2020

The Paycheck Protection Program Flexibility Act is effective June 5, 2020, and modifies and relaxes some of the loan conditions in the CARES Act. Approximately \$100 billion in loans are still available, and currently applications must be received by June 30, 2020.

More Time: Effective for all PPP loans, this law extends several time periods that are relevant to Paycheck Protection Program (PPP) borrowers. First, the "covered period" in which a business must spend or incur eligible expenditures is extended from 8 weeks after the date of loan origination to the earlier of December 31, 2020, or 24 weeks after the date of loan origination. A business that received a PPP loan prior to June 5, 2020, may elect to apply a covered period of 8 weeks after the date of origination of its loan. Borrowers can take advantage of this additional time to reopen and to restore their workforce levels and wages to the pre-pandemic levels required for full loan forgiveness by the Small Business Administration.

This law also extends the deferral period for loan payments until the date on which the amount of forgiveness is remitted to the lender. However, borrowers who have not applied for forgiveness within 10 months of the last day of their covered period must begin making loan payments at that time.

Reduction in Required Spending for Payroll Costs: This law reduces the percentage of the loan amount that must be spent on eligible payroll costs from 75% to 60%. The remaining 40% may be used toward other eligible expenses, such as mortgage interest, rent, and utility payments.

Two New Exceptions to Loan Forgiveness Reductions: Two exceptions to the forgiveness reduction for unrestored FTEs are available, borrowers can avoid reduction of full forgiveness if they can document that (1) they were unable to rehire former employees and they could not find new qualified employees for unfilled positions; or (2) they were unable to restore business operations to Feb. 15, 2020, levels due to compliance with COVID-19 related federal restrictions or guidance on sanitation, social distancing or other worker- or customer-related safety requirements.

Repayment Term: PPP loans originated on or after June 5, 2020 (and not forgiven) will have a minimum repayment term of five years. The SBA had required a 2 year minimum repayment term. This act expressly permits lenders and borrowers of loans originated prior to June 5, 2020 to mutually agree to a 5 year repayment period.

Deferral of Payroll Tax Now Permitted: This law strikes the prohibition in the CARES Act that prevented PPP borrowers whose loans were forgiven from taking advantage of delaying payment of payroll taxes which the CARES Act made available to other employers. Now employers whose PPP loans are forgiven will be eligible to defer payment of payroll taxes as permitted under the CARES Act.

Link to Paycheck Protection Program Flexibility Act: <https://www.congress.gov/116/bills/hr7010/BILLS-116hr7010enr.pdf>

Our attorneys are available to answer your questions about the PPP and other relief programs.



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