

# Overview: PPP Flexibility Act

To our clients, friends, and associates:

I have some good news regarding the Paycheck Protection Program (PPP) initially passed by Congress in March as part of the CARES Act and subsequently infused with additional funding in April.

As you may know, the initial rollout of the program was rocky and some provisions of the program were criticized by businesses as not doing enough to help. In an effort to address these issues and increase the program's impact, Congress has passed, and the President has signed into law, the Paycheck Protection Program Flexibility Act (PPP Flexibility Act).

The changes will make it easier for many borrowers to obtain forgiveness of PPP loans. Two of the biggest improvements are the extension of the time for using loan proceeds, and an increase in the percentage of loan proceeds that can be used for expenses other than payroll.



The PPP Flexibility Act extends the timeframe (i.e., the covered period) in which PPP funds must be used in order to have the loan forgiven. The covered period, which was originally eight weeks, has been expanded to 24 weeks (but ending no later than December 31, 2020).

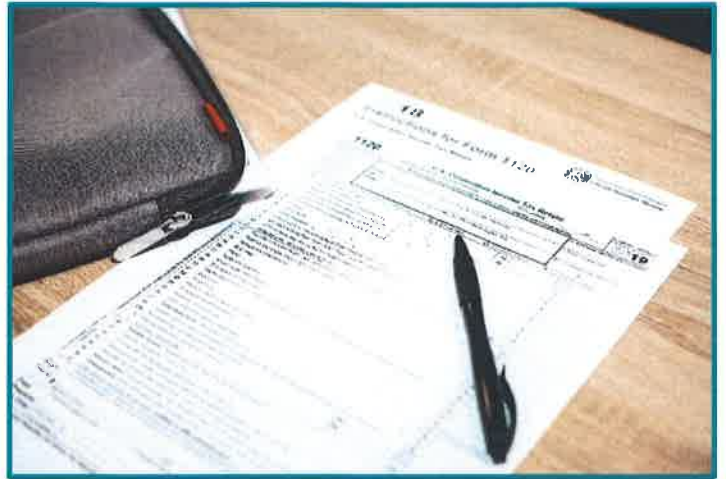
The PPP Flexibility Act also allows borrowers to spend up to 40 percent of loan proceeds on nonpayroll costs such as rent, utilities, and interest on mortgages, rather than the 25 percent that was initially specified. The improvement, however, comes with a catch: borrowers who use more than 40 percent of the loan proceeds for nonpayroll costs are now ineligible for loan forgiveness altogether.

Another favorable change was made to the time in which borrowers have to begin repaying a loan that doesn't qualify for forgiveness. That time period is now five years rather than two years.

With respect to the reduction in the amount of a loan that may be forgiven where an employer reduces employee headcounts or wages, a new exemption has been created for businesses that are unable to rehire employees (or hire replacements) or to return to their same level of business activity as before the COVID-19 pandemic as a result of compliance with federal health and safety guidelines.

Other changes in the PPP Flexibility Act include:

- A revision to the six-month deferral period that allows borrowers to defer payments until they receive compensation for forgiven amounts, and for those that don't apply for forgiveness, extending the time to begin making payments to 10 months from the program's expiration;
- The elimination of a provision that made a paycheck protection loan recipient who had PPP debt forgiven ineligible to defer payroll tax payments.



If you have received a PPP loan and would like more information on these changes or need help with assembling the numbers for a PPP loan forgiveness application, please don't hesitate to get in touch with us.

## Highlights of Changes

<b>(Paycheck Protection Flexibility Act, H.R. 7010)</b>		
<b>STANDARD TO BE MET FOR FORGIVENESS</b>	<b>Original Standard</b>	<b>Revised Standard</b>
"Covered Period" - the time frame in which PPP funds <b>MUST</b> be used to qualify for forgiveness	8 weeks from loan date	24 weeks from loan date (but not beyond 12/31/2020)
Percentage of loan proceeds that must be used for <b>QUALIFIED PAYROLL</b> expenses	75%	60%
(Therefore, maximum percentage allowed for <b>NON-PAYROLL</b> qualified expenses: rent, mortgage interest, utilities)	25%	40%
Deadline to Restore FTE equivalent and wages to pre-pandemic levels	June 30 2020	24 weeks from loan (but not beyond 12/31/2020)
Exception to head count if business has documented declined job offers from former employees	Yes	Yes
<b>NEW:</b> Exception to head count if business could not find qualified employees, or could not restore business operations to pre-Feb 15 2020 levels	No	Yes
Loan terms for repayment of unforgiven loan amount	2 Years	5 Years
Loan Payment Deferral Period for non-forgiven loan balance	6 Months	When Forgiveness Amount is confirmed, or 10 Months
Coordination with the CARES Act provision allowing extension of time to pay employment taxes	No - not allowed	Yes (taxes due 3/27-12/31/20, pay 50% by 12/31/21, 50% by 12/31/22) <b>EMPLOYER</b> portion FICA only.