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Loan forgiveness expanded under the Paycheck Protection Program

The CARES Act created the Paycheck Protection Program (PPP) to provide short-term loans to encourage small businesses to avoid layoffs. PPP loans may be forgiven if certain statutory requirements are met. On June 5, President Trump signed the Paycheck Protection Program Flexibility Act of 2020 into law, amending the PPP to make it easier for loan recipients to qualify for forgiveness.

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Background

In response to the COVID-19 crisis, the CARES Act created the Paycheck Protection Program (PPP), providing short-term loans to help small businesses avoid layoffs. Loans secured under the program may be forgiven if used for payroll and other business expenses and other statutory requirements are met.

On June 3, 2020, the Senate unanimously approved the Paycheck Protection Program Flexibility Act of 2020 ([H.R. 7010](#)), which the House had passed with overwhelming bipartisan support on May 28. The Act amended the PPP to make it easier for loan recipients to qualify for forgiveness. President Trump signed it into law on June 5, 2020.

Paycheck Protection Program Flexibility Act

The Act amended the Small Business Act and the CARES Act to modify various provisions related to PPP loan forgiveness, deferral of payroll taxes, and loan terms. Key changes to the PPP are summarized below.

Among other things, the Act:

- Extends the period to spend PPP loan proceeds and have the loans forgiven from eight weeks to the earlier of 24 weeks from the date of the loan origination, or December 31, 2020

- Lowers the threshold on how much of the loan proceeds recipients must spend on payroll from 75% to 60% and raises the non-payroll portion (i.e., covered mortgage obligations, covered rent obligations and covered utility payments) of a forgivable covered loan amount from 25% to 40%
- Eliminates restrictions limiting loan terms to two years and extends the covered period during which a PPP loan recipient may use loan funds for certain expenses while remaining eligible for forgiveness
- Extends the loan repayment period from two to five years for loans that originate after the date the Act is signed
- Requires loan recipients to comply with COVID-19 safety standards

Loan forgiveness amount

During the period beginning February 15, 2020 and ending December 31, 2020, the amount of loan forgiveness will be determined without regard to a proportional reduction in the number of full-time employees if the recipient is (1) unable to rehire former employees it employed as of February 15, 2020 and unable to hire similarly qualified employees for unfilled positions on or before December 31, 2020, or (2) unable to return to the same level of business activity as before February 15, 2020 due to compliance with COVID-19 related HHS, CDC or OSHA requirements or guidance related to maintaining sanitation standards, social distancing, or any other worker or customer safety requirement.

The Act also extends the period in which an employer may rehire or eliminate a reduction in headcount, salary or wages without reducing the forgivable amount of a PPP loan from June 30, 2020 to December 31, 2020.

Payment deferral period

The Act also extends the deferral period before PPP loan payments are due, allowing loan recipients to defer payments until their lender receives compensation for forgiven amounts. Recipients who do not apply for forgiveness must begin making payments within 10 months after the end of their covered period.

Payroll taxes

The Act would allow recipients of PPP loan forgiveness to defer payroll taxes eliminating the CARES Act provision that rendered them ineligible to defer those payments.

In closing

On June 5, President Trump signed into law the Paycheck Protection Program Flexibility Act of 2020, amending the Small Business Act and the CARES Act to make it easier for PPP loan recipients to qualify for loan forgiveness. With the exception of the extended maturity for new PPP loans, the

changes are effective as if they were included in the CARES Act and apply to any loans made under the PPP.

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