

Paycheck Protection Program Flexibility Act of 2020

On Wednesday June 3, 2020 the Senate passed H.R. 7010 which modifies “certain provisions related to the forgiveness of loans under the paycheck protection program” (PPP Loans). The Act, known as the Paycheck Protection Program Flexibility Act of 2020, was signed into law on June 5 and is intended to make use of the PPP Loan funds less onerous for borrowers. The adjustments to the original PPP Loan program are as follows:

- The covered period is extended to the earlier of 24 weeks or December 31, 2020, rather than the original 8 weeks (or the alternative 8 week covered period). While this adjustment gives borrowers more time to spend down their PPP Loan, it is unclear if the per employee cap on total cash compensation increases as a result of this adjustment (i.e., \$15,385 becomes \$46,153).
- Current PPP Loan borrowers may elect the original 8 week covered period.
- The portion of the PPP Loan forgiveness amount for non-payroll costs increases from 25% under SBA guidance to 40%. However, this adjustment may come with a price. Some interpretations of the Act suggest that at least 60% of PPP Loan proceeds must be used on payroll costs or no forgiveness is available.
- The date by which borrowers must rehire employees to avoid limitations on PPP Loan forgiveness is extended from June 30, 2020 to December 31, 2020.
- An additional exemption provides borrowers additional flexibility regarding PPP Loan forgiveness limitations when business operation restrictions and rehires are properly documented.
- The maturity for any PPP Loan made after the date of enactment is increased to a minimum of 5 years. This extended maturity period obviously applies only to the PPP Loan balance remaining after the application of forgiveness. The Act also specifies that lenders and borrowers may mutually agree to extend the maturity of existing PPP Loans from 2 years to 5 years.
- The deferral period for PPP Loan payments is extended to the determination of forgiveness from the SBA (no longer six months).
- Borrowers who obtain partial or full forgiveness of their PPP Loan are also now eligible for delayed payments of employer payroll taxes. Read more about these details [here](#).

These adjustments provide more flexibility for borrowers to maximize potential loan forgiveness. This is great news for borrowers who have PPP Loans or eligible organizations who may now benefit by applying for a PPP Loan.

Regardless of the additional flexibility, the CARES Act and the rules for PPP Loan forgiveness leave many unanswered questions. This Act does not provide clarity on a myriad of issues that currently exist and raises additional concerns that need to be considered. Your organization’s specific circumstances will need to be reviewed and discussed on a case by case basis. Please feel free to contact Seigneur Gustafson LLP with any questions or for assistance at 303-980-1111 or info@cpavalue.com.

We expect the SBA will issue additional guidance. SG plans to provide a comprehensive yet practical review of PPP loan forgiveness program and compliance process later this month.