

Up to date as of 06/04/20

PAYCHECK PROTECTION PROGRAM FLEXIBILITY ACT

PPP Flexibility Act insight from BKD:

- Any portion of the PPP loan that is not forgiven would have a five-year term instead of the current two-year term. Would apply only to PPP loans received after the date of enactment of this Bill, however, borrowers and lenders with existing PPP loans can modify the terms of those loans to correspond to the terms of the Bill
- Program term would be extended to December 31, 2020 from June 30, 2020
- Covered period would be extended from the current eight weeks to earlier of 24 weeks from date proceeds deposited or December 31, 2020. Borrowers with existing loans could elect to retain the existing 8 weeks
- Safe harbor restoration deadline date provisions (FTE and Salary/Wage Reduction) would be moved to December 31, 2020 from June 30, 2020
- Added another new safe harbor provision to remove the FTE reduction in forgiveness. Requirements to meet the new safe harbor is that the borrower can document:
 - Inability to rehire individuals who were employees on 2/15/20 and the inability to hire similarly qualified employees for unfilled positions on or before December 31, 2020, or
 - Inability to return to the same level of business activity as such business was operating at before February 15, 2020 due to compliance with requirements established or guidance issued by Secretary of Health and Human Services, Director of the Center for Disease Control or OSHA during period 3/1/2020 and ending 12/31/2020, relating to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19
- Would change the existing 75% requirement for minimum spend on payroll costs down to 60%. [Note: Remember the existing 75% limitation is derived by dividing total payroll costs by 75%]
- Deferral of payments on the PPP loan until such time as the final forgiveness amount is remitted to the lender by the SBA
- Borrowers would be required to request forgiveness within ten months of the last day of their 24-week covered period (8-week covered period if making election to retain) or payments would be required to begin at that time
- Would remove any restriction on a borrower to defer payment of employer payroll taxes. Currently, can only defer until borrower receives forgiveness of PPP loan.

For additional information or questions contact:

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