

PPP RULES HAVE CHANGED

Should you rethink your plans?

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Moderated by: Jay Goldman, CPA

Date: June 17, 2020



H.R. 7010

- May 28 Passed by House
- June 3 Passed by Senate
- June 5 Signed by White House



ABOUT TREASURY

SECRETARY MNUCHIN

POLICY ISSUES

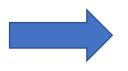
DATA

SER

For small businesses seeking direct relief from COVID-19, CLICK HERE to lear

For Borrowers

- More information (3/31/2020)
- Search Tool: Find an Eligible Lender
- Borrower Application Form (revised 6/12/2020)
- Borrower Application Form (revised 6/11/2020)
- Borrower Application Form (4/2/20)
- Applicable Affiliation Rules
- How to Calculate Loan Amounts
- Loan Forgiveness Application Form EZ Instructions
- 🔹 Loan Forgiveness Application Form EZ 👨
- Loan Forgiveness Application Instructions (Revised 6/16/2020)
- Loan Forgiveness Application (Revised 6/16/2020)



Updates Since May 22, 2020

- No new FAQs have been issued
- 5 additional IFRs have been issued
 - Mostly clarifications of the application and updates for the new law
- PPP Flexibility Act of 2020 Written, Voted and Passed
- UPDATES TODAY:
 - Updated Loan Forgiveness Applications and Instructions – Regular and EZ
 - 6th additional IFR



Objective

 Raise your level of awareness on how the most recent changes in the PPP program will impact your business



Agenda

- Review the provisions of the PPP Flexibility Act of 2020
- Review Open Questions
- Review Most Frequently Asked Questions
- Review Implementation Strategies



Loan Maturity

- Original Law: Not More Than 10 Years
- Treasury/SBA: 2 Years
- New Law: Not Less than 5, Not More Than 10
- Treasury/SBA: 5 years
 - Prospective Basis
 - Only part of law that is not retroactive
 - However, borrowers and lenders can mutually agree to change existing loans



Extension of 1102 Covered Period

- Time Period to Apply for Funds
 - Unchanged: June 30, 2020

- Time Period to Spend the Funds
 - Old Law: June 30, 2020
 - New Law: December 31, 2020



Extension of 1106 Covered Period

- Old Law: 8 weeks from disbursement date
- New Law: 24 weeks from disbursement date OR December 31, 2020 – whichever comes first
 - Note: If loan funded on or before June 5, 2020 borrower can opt to maintain original 8 weeks



Re-Hire Provisions

• Old Law: June 30, 2020

New Law: December 31, 2020

Relates to both the FTE and the Salary/Wage



FTE Exemptions

Old Law: None

- Treasury/SBA Regulations issued after Law:
 - FAQ 40: Good Faith Effort to Rehire
 - Application: Fired for Cause; Voluntarily Resigned,
 Voluntarily Reduced Hours



FTE Exemptions

- New Law:
 - In addition to Treasury/SBA Regulations:
 - Inability to Rehire Prior Employees AND Inability to Hire Similarly Qualified Employees

OR

 Inability to Return to Same Level of Business Activity Due to Compliance Issues – HHS, CDC, OSHA – Relating to Maintenance of Standards for Sanitation, Social Distancing, Worker & Employee Safety



Limitation on Forgiveness

- Old Law: None
- SBA/Treasury: Min 75% Payroll, Max 25% Non-Payroll
 - Pro-Rated
- New Law: Min 60% Payroll, Max 40% Non-Payroll
 - Cliff
 - Congress has identified this as a problem they would like to correct
- SBA has indicated will not interpret as a cliff



Deadline to Apply for Forgiveness

- Old Law: Silent
- SBA/Treasury: Silent
- New Law: Within 10 months after the last day of the covered period



Extension of Deferral Period

- Old Law: Not Less than 6 months, Not More than 12
- SBA/Treasury: 6 months
- New Law: Deferred until amount of forgiveness is remitted to the lender by the federal government



Delay of Payment of Payroll Taxes

- Old Law: Ineligible if PPP forgiveness received
- Treasury/SBA: Eligible until PPP forgiveness received
- New Law: Eligible regardless



Taxation of PPP Proceeds

- Old Law: Forgiveness is NOT taxable
- IRS: Therefore, expenses are NOT DEDUCTIBLE
- New Law: Unfortunately, silent
 - Some in Congress have identified this as a problem they would like to correct



Questions Unanswered (May 22)

- What does "mortgage on personal property" mean? Secured? Does it matter?
- The definition of utilities includes "transportation". What is that? Does it matter?
- Do the other SBA 7(a) loan allowable costs qualify?
 Yes but does it matter?
- Is it really tax-free income or does the loan generate non-deductible expenses? Unresolved



New Questions Raised (May 22)

- Does "owner-employee" include corporate shareholders?
- Do attribution rules apply to owners?
- Are owner benefits forgivable?
- FTE Safe Harbor "As of" Dec 31 vs. "Not Later Than" Dec 31
- Incurred OR Paid More than 8 (24) weeks?
- Future changes? YES



Frequently Asked Questions

- At the end of 8 weeks, I will have spent 85% of my PPP funds. By week 10, I will have spent the rest.
 Can I apply for forgiveness after week 10?
- My 8 weeks ends this week and I want to use the 8 weeks. Can I apply for forgiveness this week?
- When do I need to decide if I am using 8 weeks or 24 weeks?
- What decisions do I need to make before the 8 weeks ends if I am not sure which period I want to use?



Frequently Asked Questions

- Is the per employee limit still \$15,385 for the 24 weeks?
- With 24 weeks I will likely spend way more than the total amount of my loan. How do I determine if I should spend my PPP money on payroll vs nonpayroll costs?
- Which will be better for me 8 weeks or 24 weeks?
- If I elect the 8 weeks, can I still use June 30 as the safe harbor date?
- Are you updating the workbooks?



Implementation Strategies

Achieving full forgiveness (or maximum forgiveness) requires tracking 3 primary amounts:

- Total amount of funds spent during forgiveness covered period – 8 weeks or 24 weeks
- Monitoring employee rates of pay during covered period – 8 weeks or 24 weeks and possibly Dec 31 as well
- Monitoring FTE count during covered period 8
 weeks or 24 weeks and possibly at Dec 31 as well



Implementation Strategies

- Take advantage of payroll tax deferral
- Wait for 24 weeks to pass, determine if 8 week or 24 week period is better
- Take your time repayment can be deferred 18+ months
- Re-evaluate payplans and guarantees
- Re-evaluate staffing needs
- Stop worrying about all the little expenses they probably don't matter



Questions?

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Thank You



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