



PAYCHECK PROTECTION PROGRAM FLEXIBILITY ACT SUMMARY

JUNE 9, 2020

PLEASE NOTE THAT THIS COMMUNICATION IS FOR INFORMATIONAL PURPOSES ONLY AND DOES NOT CONSTITUTE LEGAL ADVICE. PLEASE CONTINUE TO RELY ON THE ADVICE OF YOUR COUNSEL REGARDING STATE AND LOCAL LAWS AND REGULATIONS AS THEY PERTAIN TO YOUR BUSINESS. SOME LINKS CONTAINED HEREIN MAY LEAD TO THIRD-PARTY SITES AND ARE INCLUDED FOR YOUR CONVENIENCE; WE RECOMMEND THAT YOU REVIEW THE TERMS AND CONDITIONS OF THOSE SITES AS YOU ACCESS THEM.



The Paycheck Protection Program Flexibility Act of 2020 was signed into law on June 5, 2020. [Here is its text.](#)

Extension of Covered Period

The covered period is now 24 weeks instead of 8 weeks. However, existing borrowers may elect to keep the 8-week covered period. In any case, the covered period may not extend beyond Dec. 31, 2020. The deadline to apply for PPP loans is still June 30, 2020.

Reduction of Payroll Spending Requirement

For all PPP loans, the payroll spending requirement is reduced from 75% to 60%. [The SBA has clarified](#) that, despite the language in the text of the act, 60% of the **amount forgiven** must be used for payroll costs and that this requirement is not a complete bar to forgiveness.

Extension of Repayment Term

For new PPP borrowers, the minimum maturity for amounts that aren't forgiven is 5 years, instead of the original 2 years. Lenders and borrowers may mutually agree to modify the maturity term of an existing PPP loan.

Extension of Deadline to Restore Headcount and Salary Reductions

For all PPP borrowers, the deadline to restore headcount and salary/wage reductions is pushed back from June 30 to December 31, 2020, for purposes of calculating forgiveness amount reductions.

Employee Availability Safe Harbor for Headcount Reductions

For all PPP borrowers, there is an employee availability safe harbor for forgiveness amount reductions based on a headcount reduction if the borrower can document:

- An inability to rehire individuals who were employees on Feb. 15, 2020, **and** an inability to hire similarly qualified employees for unfilled positions on or before Dec. 31, 2020; *or*
- An inability to return to the same level of business activity as such business was operating at before Feb. 15, 2020, due to compliance with requirements established or guidance issued by the HHS, CDC, or OSHA between March 1 and Dec. 31, 2020, relating to the maintenance of standards for sanitation, social distancing, or any other worker/customer safety requirement related to COVID-19.

Extension of Deferral Period

For all PPP loans, the deferral period is changed from 6 months to the period ending on the date on which the forgiveness amount is remitted to the lender. However, a borrower now **must** apply for forgiveness within 10 months of the last day of the covered period.

Delay of Payroll Taxes

All PPP borrowers may delay payment of payroll taxes, which had previously been prohibited by the CARES Act. Of the deferred amounts, 50% is due on Dec. 31, 2021, and the remainder is due Dec. 31, 2022.

- Deferred taxes: employment taxes and 50% of SECA for the period beginning on the date of enactment of the CARES Act (March 27, 2020) and ending before January 1, 2021