



June 5, 2020

CONGRESS PASSES PPP FLEXIBILITY ACT

Congress passed the Payroll Protection Program Flexibility Act last night and President Trump is expected to sign the bill in the next few days. The bill contains significant changes to PPP loan forgiveness. A brief summary of the updated terms are as follows:

1. **Forgiveness Period Extended**: The loan forgiveness period is extended from 8 weeks to the earlier of 24 weeks or December 31, 2020.
2. **Covered Period of the Loan**: The covered period of the PPP loan is extended from June 30, 2020 to December 31, 2020
3. **Payroll Minimum**: The minimum amount required to be spent on payroll is reduced from 75% to 60%. Now up to 40% of eligible expenses (mortgage interest, rent, utilities) may be eligible for forgiveness.
4. **Employee Rehiring Date**: The bill changes the date by which employees that were laid off from February 15 – April 26, 2020 must be rehired by in order to achieve maximum forgiveness from June 30, 2020 to December 31, 2020.
5. **Extended Maturity for New PPP Loans**: Congress has extended the term of all PPP loans made after the PPP Flexibility Act becomes law from 2 years to a minimum of 5 years. While this provision is not effective for existing PPP loans, the PPP Flexibility Act specifically permits existing PPP loans to be amended to reflect the longer term by “mutual agreement” of lenders and borrowers.
6. **Removal of Restrictions on Payroll Tax Deferral**: Congress has eliminated the provision of the CARES Act that prohibited PPP borrowers receiving loan forgiveness from also utilizing the CARES Act’s payroll tax deferral. PPP borrowers may now utilize the payroll tax deferral as well, regardless of whether they receive forgiveness. This provision is also retroactive to the date that the CARES Act was enacted.