



Paycheck Protection Program Update

Flexibility Act of 2020

Thursday, June 25, 2020

Agenda

- Broad Status Update of Paycheck Protection Program Flexibility Act of 2020
- New Forgiveness Applications and Recent SBA/Treasury Guidance
- Resources Available
- Questions and Answers



PPP Flexibility Act of 2020

Scott Grimm, CPA
ACM Denver Tax Partner

Summary of the PPP Flexibility Act of 2020

- The deadline for PPP loan applications continues to be June 30, 2020
- Borrowers who received loans prior to June 5 have the option to extend the 8-week period to 24 weeks
 - Provides flexibility for borrowers that may make it easier to achieve full or near-full forgiveness if current conditions aren't conducive to bringing back employees
 - Election is made on the forgiveness application by indicating the covered period dates

Summary of the PPP Flexibility Act of 2020

- Borrowers who receive loans June 5 or later have a covered period of 24 weeks after the loan proceeds are received
 - The covered period cannot extend beyond December 31, 2020
 - This is based on the Loan Forgiveness Application Instructions for Borrowers
- Repayment period extended to five years for loans made on or after June 5
 - Existing PPP loans can have maturity extended if lender and borrower agree
 - Interest rate to remain at 1%

Summary of the PPP Flexibility Act of 2020

- The 75% payroll expenditure requirement is reduced to 60%
 - This Act provides that borrowers shall use at least 60% of the covered loan amount for payroll costs
 - Because the loan amount is based on 10 weeks of payroll, borrowers may have a good chance of meeting the 60% requirement with the covered period extended to 24 weeks

Summary of the PPP Flexibility Act of 2020

- Opportunity to avoid FTE or Salary/Wage reduction penalties if headcount or salary/wages are restored by December 31 instead of June 30
 - Borrowers have a longer period of time to restore workforce or salary/wages
- Exceptions for FTE reduction provided if borrower documents an inability to:
 - Rehire individuals who were employees of the eligible recipient on February 15, 2020; and
 - Hire similarly qualified employees for unfilled positions on or before December 31, 2020;

or

 - Return to the same level of business activity as before Feb. 15, 2020, due to compliance with requirements established or guidance issued related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19 (see language in [the Act](#) for full description).

Summary of the PPP Flexibility Act of 2020

- PPP Borrowers can now qualify for the deferral of employer's share of payroll taxes available under the CARES Act
 - Deferral of Social Security payments (6.2%)
 - 50% due on December 31, 2021, remainder due on December 31, 2022

Summary of the PPP Flexibility Act of 2020

- Loan Payments are deferred until the SBA determines the amount of loan forgiveness and remits to the lender
 - Had been a 6-month deferral
 - However, if borrower doesn't apply for forgiveness within 10 months after the last day of the covered period, payments will be required at that 10th month

Interim Final Rule on Additional Revisions to First Interim Final Rule (6/12/2020)

- First Interim Final Rule (IFR) disqualified an applicant if an owner of 20% or more had been convicted of a felony within the last five years
- Revises First IFR to reduce the requirement to one year for felonies that don't include fraud, bribery, embezzlement, or a false statement in a loan application or an application for federal financial assistance
- Additional Interim Final Rule posted on 6/24/2020 providing additional details on eligibility requirements regarding pending criminal charges for felony offences

Interim Final Rule on Revisions to the Third and Sixth Interim Final Rules (6/17/2020)

- Incorporates provisions of PPP Flexibility Act (covered period, 60%, etc.)
- Eligible payroll costs per employee
 - Capped at \$46,154 for 24-week covered period borrowers
 - Remains capped at \$15,385 for 8-week covered period borrowers
- Owner Compensation Replacement
 - Capped at the lesser of \$20,833 or 2.5 months' worth of 2019 net profit for 24 - week covered period borrowers
 - $\$100k / 12 \text{ months} * 2.5 \text{ months} = \$20,833$
 - Remains capped at \$15,385 for 8-week covered period borrowers
 - Note: instructions to loan forgiveness application indicate all owners are capped at these amounts (including S corp and C corp owners)

Revisions to Loan Forgiveness Interim Final Rule and SBA Loan Review Procedures Interim Final Rule (6/22/2020)

Early loan forgiveness applications

- The new interim final rule states if a borrower applies for loan forgiveness before the end of the covered period and has reduced any employees' salaries or wages by more than the 25% allowed for full forgiveness, the borrower must account for the excess salary reduction for the full eight-week or 24-week covered period, whichever one applies to its loan.
- Under that guidance, PPP borrowers that apply early for loan forgiveness forfeit a safe-harbor provision allowing them to restore salaries or wages by Dec. 31 and avoid reductions in the loan forgiveness they receive. For example, if a borrower has a 24-week period that ends in November but wants to apply in September, any wage reduction in excess of 25% as of September would be calculated for the entire 24-week period even if the borrower restores salaries by Dec. 31.

Revisions to Loan Forgiveness Interim Final Rule and SBA Loan Review Procedures Interim Final Rule (6/22/2020)

Early loan forgiveness example

- A borrower is using a 24-week covered period. This borrower reduced a full-time employee's weekly salary from \$1,000 per week during the reference period to \$700 per week during the covered period. The employee continued to work on a full-time basis during the covered period, with an FTE of 1.0. In this case, the first \$250 (25% of \$1,000) is exempted from the loan forgiveness reduction. The borrower seeking forgiveness would list \$1,200 as the salary/hourly wage reduction for that employee (the extra \$50 weekly reduction multiplied by 24 weeks). If the borrower applies for forgiveness before the end of the covered period, it must account for the salary reduction for the full 24-week covered period (totaling \$1,200).

Revisions to Loan Forgiveness Interim Final Rule and SBA Loan Review Procedures Interim Final Rule (6/22/2020)

What is the general process to obtain loan forgiveness?

- To receive loan forgiveness, a borrower must complete and submit the Loan Forgiveness Application (SBA Form 3508, 3508EZ, or lender equivalent) to its lender.
- The lender will review the application and make a decision regarding loan forgiveness. The lender has 60 days from receipt of a complete application to issue a decision to SBA.
- If the lender determines that the borrower is entitled to forgiveness of some or all of the amount applied for under the statute and applicable regulations, the lender must request payment from SBA at the time the lender issues its decision to SBA.
- SBA will, subject to any SBA review of the loan or loan application, remit the appropriate forgiveness amount to the lender, plus any interest accrued through the date of payment, not later than 90 days after the lender issues its decision to SBA.

Revisions to Loan Forgiveness Interim Final Rule and SBA Loan Review Procedures Interim Final Rule (6/22/2020)

What should a lender review?

The lender shall:

- Confirm receipt of the borrower certifications
- Confirm receipt of the documentation to aid in verifying payroll and nonpayroll costs
- Confirm the borrower's calculations, including the dollar amount of the:
 - Cash Compensation, Non-Cash Compensation, and Compensation to Owners, and
 - Business Mortgage Interest Payments, Business Rent or Lease Payments, and Business Utility Payments, by reviewing the documentation submitted by the borrower.
- Confirm that the borrower made the calculation on Line 10 of the SBA Form 3508 or lender's equivalent form correctly, by dividing the borrower's Eligible Payroll Costs claimed on Line 1 by 0.60



Forgiveness Applications and Related Guidance

Brian Zales, CPA, CGMA, ABV, CFE
ACM Denver Consulting Partner

New EZ Loan Forgiveness Application

One page form plus certifications and representations

Applies to borrowers that:

- Are self-employed and have no employees
OR
- Did not reduce the salaries or wages of their employees by more than 25%, and did not reduce the number of employees or hours of their employees
OR
- Experienced reductions in business activity as a result of health directives related to COVID-19, and did not reduce the salaries or wages of their employees by more than 25%

Requires fewer calculations

- Documentation still required to be submitted /maintained

Checklist for Using SBA Form 3508EZ

You (the Borrower) can apply for forgiveness of your Paycheck Protection Program (PPP) loan using this SBA Form 3508EZ if you can check at least one of the three boxes below. Do not submit this Checklist with your SBA Form 3508EZ.

- The Borrower is a self-employed individual, independent contractor, or sole proprietor who had no employees at the time of the PPP loan application and did not include any employee salaries in the computation of average monthly payroll in the Borrower Application Form (SBA Form 2483).

- The Borrower did not reduce annual salary or hourly wages of any employee by more than 25 percent during the Covered Period or the Alternative Payroll Covered Period (as defined below) compared to the period between January 1, 2020 and March 31, 2020 (for purposes of this statement, "employees" means only those employees that did not receive, during any single period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000);

AND

The Borrower did not reduce the number of employees or the average paid hours of employees between January 1, 2020 and the end of the Covered Period. (Ignore reductions that arose from an inability to rehire individuals who were employees on February 15, 2020 if the Borrower was unable to hire similarly qualified employees for unfilled positions on or before December 31, 2020. Also ignore reductions in an employee's hours that the Borrower offered to restore and the employee refused. See [85 FR 33004](#), 33007 (June 1, 2020) for more details.

- The Borrower did not reduce annual salary or hourly wages of any employee by more than 25 percent during the Covered Period or the Alternative Payroll Covered Period (as defined below) compared to the period between January 1, 2020 and March 31, 2020 (for purposes of this statement, "employees" means only those employees that did not receive, during any single period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000);

AND

The Borrower was unable to operate during the Covered Period at the same level of business activity as before February 15, 2020, due to compliance with requirements established or guidance issued between March 1, 2020 and December 31, 2020 by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, related to the maintenance of standards of sanitation, social distancing, or any other work or customer safety requirement related to COVID-19.

Revised Loan Forgiveness Application

Form is very similar to original but some changes:

- Borrower with loan prior to June 5 determines 8 vs 24 weeks by indicating covered period
- New certification regarding FTE reduction safe harbor related to operating restrictions
- FTE and salary/hourly wage calculation mechanics are basically the same

What we learned:

- Health insurance for S corp owners not allowed (in addition to self-employed and general partners)
- Retirement contributions for S corp owners are allowed (not allowed for self-employed and general partners)

Questions Still Remain

- Who is an owner-employee?
- What should self-employed/general partners use for 2020 compensation?
- What is included in utilities?
- This legislation does not address tax deductibility of expenses paid with a forgiven PPP loan.

AICPA Loan Forgiveness Calculator

- **Being updated for new provisions**
- Simple version (no employees) will also be available
- **Tips:**
 - Read the application before starting the calculator and keep it close. It will come in handy
 - Instructions tab has helpful hints
 - Read all the notes in the calculator
 - Enter data in all the blue input cells
 - FTE input will need to be calculated outside this spreadsheet
- Download at aicpa.org/sba



PPP Loan Forgiveness Calculation			
Payroll costs	Line 1	-	
Business mortgage interest payments	Line 2	-	
Business rent or lease payments	Line 3	-	
Business utility payments	Line 4	-	
Total eligible costs		-	
Add: Accrued Interest on PPP Loan			
Adjustments for FTE and Salary/Wage Reduction			
Total salary/hourly wage reductions	Line 5	-	
Subtotal	Line 6	-	
FTE reduction quotient	Line 7	-	
Modified total	Line 8	-	Now 60%
PPP Loan Amount	Line 9		
Payroll cost 75% requirement	Line 10	-	
Forgiveness amount (smallest of line 8, 9 and 10)	Line 11	-	
EIDL Emergency Grant			
Net amount of eligible loan forgiveness			
Remaining loan balance after forgiveness			

Guidance on Accounting for Forgivable PPP Loans

Technical Question and Answer (“TQA”) 3200.18 addresses accounting for nongovernmental entities only (which include business entities and not-for-profit entities (NFPs)). The TQA explains that an entity accounting for the PPP loan:

- Would initially record the cash inflow from the PPP loan as a financial liability and would accrue interest in accordance with the interest method
- Would not impute additional interest at a market rate
- Would continue to record the proceeds from the loan as a liability until either:
 - the loan is partly or wholly forgiven and the debtor has been legally released, or
 - the debtor pays off the loan.
- Would reduce the liability by the amount forgiven and record a gain on extinguishment once the loan is partly or wholly forgiven and legal release is received
- A not-for-profit should account for PPP loans as a conditional contribution
- TQA can be found [here](#)

SBA, Treasury to Publish Names of Some PPP Loan Recipients

- The U.S. Small Business Administration (SBA) and Treasury have agreed to publish the names and amount ranges for all recipients of PPP loans of \$150,000 or more
- Specifically, the SBA will disclose the business names, addresses, North American Industry Classification System (NAICS) codes, ZIP codes, business type, demographic data, not-for-profit information, jobs supported, and loan amount ranges as follows:
 - \$150,000 to \$350,000
 - \$350,000 to \$1 million
 - \$1 million to \$2 million
 - \$2 million to \$5 million
 - \$5 million to \$10 million

Media Focus Update

≡ **POLITICO** 🔍

CONGRESS

Democrats accuse SBA of illegally blocking oversight of lending program

Senior lawmakers said the Small Business Administration is not cooperating with a GAO review of the Paycheck Protection Program.



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CONGRESSWOMAN ANGIE CRAIG AUTHORS BILL GIVING SMALL BUSINESSES SECOND CHANCE FOR PAYCHECK PROTECTION PROGRAM FUNDING

June 18, 2020 | [Press Release](#)

Today, U.S. Rep. Angie Craig, a member of the House Small Business Committee, introduced key legislation that would allow small businesses who have received Paycheck Protection Program (PPP) loans to apply for a second round of PPP funding to keep their small businesses going.

The *Prioritized Paycheck Protection Program Act* would allow smaller PPP recipients, with significant losses due to COVID-19, to receive a second PPP loan. The borrowers must be self-employed or have 100 or fewer employees, and have suffered more than a 50 percent loss in revenues compared to a quarter in the previous year or another relevant period. They must have exhausted, or be on pace to exhaust, their first PPP loan and certify they need the funds to keep their business operating. The borrowers must also be self-employed and eligible for a second PPP loan.



Resources and Information

Greg Anton, CPA, CGMA
ACM Chairman + CEO

Resources

- Revised PPP Loan Forgiveness Application can be found [here](#) and instructions can be found [here](#).
- EZ PPP Loan Forgiveness Application can be found [here](#) and instructions can be found [here](#).
- The full Flexibility Act of 2020 can be found [here](#).
- For more ACM COVID-19 resources, click [here](#).
- Email ACMCARES@acmlp.com with any questions or if you'd like an ACM professional to contact you.



Relief Options Available to Businesses

PPP	EIDL	Employee Retention Credit (ERC)	Payroll Tax Deferment	Main Street Lending	Additional Relief Programs
<p>Available Aid \$659B</p> <p>Available To Sole Proprietors, ICs, Companies with <500 employees</p> <p>Loan Specifics 2.5 months payroll; can become grants</p>	<p>Available Aid \$367B</p> <p>Available To Sole Proprietors, ICs, Companies with <500 employees</p> <p>Loan Specifics Up to \$10K in grants, low interest loans</p> <p>Limitations Eff. May 2020, loan limit is \$150k.</p>	<p>Size Up to \$5,000 per employee</p> <p>Business Size Rules differ for companies above and below 100 employees</p> <p>Eligibility Cannot accept PPP loan; Must be fully or partially closed OR have 50% drop in quarterly gross receipts</p>	<p>Deferred Employer portion of social security taxes</p> <p>Repayment Half by end of 2021, half by end of 2022</p> <p>Eligibility PPP Flexibility Act now allows PPP borrowers to be eligible regardless of forgiveness</p>	<p>Timeline Revised June 17; Lender reg open – borrowers pending.</p> <p>Available To Up to 15,000 employees or \$5B revenue (2019)</p> <p>Loan Specifics \$250K - \$300M Depends on loan: Main Street New Loan, Priority Loan, or Expanded Loan Facility</p> <p>Restrictions Dividends, Buybacks, Compensation, CARES</p>	<p>Many Other New federal relief programs</p> <p>State</p> <p>Local</p> <p>Private Grants</p> <p>Landlords</p> <p>Etc.</p>



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Thank You!

Any Questions?



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