NEW PPP LAW - PAYCHECK PROTECTION PROGRAM FLEXIBILITY ACT OF 2020
ALLOWS MORE TIME AND MORE NON-PAYROLL EXPENSES FOR FORGIVENESS

Today, President Trump signed the Paycheck Protection Program Flexibility Act of 2020 that was delivered to the White House on Wednesday evening. This law comes just in time for many PPP borrowers who will reach the end of their original 8 week covered period next week. The new law provides an additional 16 weeks of time to spend PPP loan proceeds on eligible expenses and also increases the percentage of “non-payroll” expenses eligible for forgiveness.

Significant changes included in the new legislation:

- Extends the “covered period” during which loan funds must be used for eligible expenses from 8 weeks to the earlier of 24 weeks or December 31, 2020. The original 8-week period may still be elected.
- Increases the maximum payroll amount per employee from $15,385 to $46,154 during the extended covered period.
- Changes the FTE safe harbor date (the date to restore FTE count to pre- COVID-19 levels) from June 30, 2020 to December 31, 2020.
- Provides additional FTE reduction exceptions to allow for changes in business activity and inability to hire similarly qualified employees.
- Changes the required spend for eligible payroll costs from 75% to 60% of forgivable funds, which then allows up to 40% of loan funds to be used for non-payroll, eligible expenses.
- Changes the loan term of unforgiven amounts to a minimum of 5 years and maximum of 10 years which overrides the SBA original term of 2 years. For existing loans the lender and borrower must agree to the change in the term.
- Allows employers who receive PPP Loan forgiveness to also qualify for payroll tax deferment. (The ability to defer the employer portion of payroll tax for the remainder of the year to be paid in two installments – 50% by 12/31/2021 and 50% by 12/31/2022.
- Extends the payment deferral period from 6 months to the date forgiveness is determined.
Although the new law allows much needed flexibility, it also requires borrowers to make more decisions. PPP loan recipients will need to determine if they should elect to stay with the 8-week covered period, choose the alternative payroll covered period, or adopt the 24-week period. This decision will be based on many factors including eligible funds spent to date, the increase to non-payroll eligible expenses, current FTE count, consideration of staffing requirements during the extended 16 weeks and other factors that are unique to a borrower’s industry or business. The adoption of the extended period may impact loan covenants, bonding, and prequalification capacity, etc. in certain industries if borrowers are required to carry the funds as a current liability past the end of the current year.

The new law will require the issuance of an updated SBA Forgiveness Application. Borrowers will have 10 months from the end of their elected covered period to apply for forgiveness or begin making payments. Borrowers should consider the timing of their forgiveness application as well, giving the potential of additional updates in the future.

Please reach out to your Somerset advisor or to one of our SBA team members to assist you in applying the new requirements to your individual business’s situation. You may also contact us at info@somersetcpas.com. As always, we are here and ready to help.

Visit our COVID-19 Resource Page