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COVID-19 RESOURCE CENTER

6/4/20 Update: Small Business Administration Provides Flexibility To Paycheck Protection Program

Six Main Takeaways of the Paycheck Protection Program Flexibility Act of 2020

On June 4, 2020, the Senate unanimously passed the Paycheck Protection Program Flexibility Act of 2020 (PPPFA) to provide much needed relief for recipients of Paycheck Protection Program (PPP) loans, which were enacted as part of the CARES Act. **Below are the key takeaways from the legislation and relief measures announced for small businesses:**

1 EXTENSION OF TIME TO UTILIZE LOAN PROCEEDS

The PPP loan program was the headliner of the CARES Act legislation and allowed qualifying businesses to receive a Small Business Administration (SBA) loan eligible for forgiveness ("tax-free") as long as the loan proceeds were used for qualifying costs during the first 8 weeks beginning on the date proceeds were disbursed. This 8-week period is commonly referred to as the "covered period" of the loan.

The PPPFA has extended the covered period through the earlier of:

- **24 weeks beginning on the date the loan proceeds were disbursed, or**
- **December 31, 2020**

2 PAYROLL VERSUS NON-PAYROLL EXPENDITURES

In order to have the loan forgiven, the loan proceeds need to be utilized for qualifying costs. These costs are broken down into 2 categories:

- Payroll Costs (Wages, Health Insurance, Retirement Plan Contributions)
- Non-Payroll Costs (Mortgage Interest, Rent, Utilities)

Borrowers needed to spend at least 75% of their loan proceeds on payroll costs to prevent a reduction in the loan amount eligible for forgiveness.

The PPPFA has reduced the percentage that needs to be used on payroll costs from 75% to 60%. Therefore, up to 40% of the loan proceeds can be expended on Non-Payroll Costs.

It should be noted that the language in the legislation has led some to believe that if at least 60% isn't spent on payroll costs, then none of the loan is able to be forgiven. This will hopefully be clarified by the SBA shortly.

3 RESTORATION OF FTE'S AND EMPLOYEE SALARIES

As part of the PPP, a borrower could potentially use all of the loan proceeds on qualifying costs and still not have the entire loan forgiven. This would be the case if an employer either reduced the amount of their full-time equivalents (FTE) or reduced salaries of employees who make less than $100,000 by more than 25%. In either situation, if the borrower restored these amounts by June 30, 2020 they would not be subject to a reduction in their loan forgiveness.

The PPPFA has extended the June 30, 2020 deadline to December 31, 2020. Therefore, as long as a borrower restores their FTE's and employee salaries by year-end they will not be subject to a reduction in their loan forgiveness.

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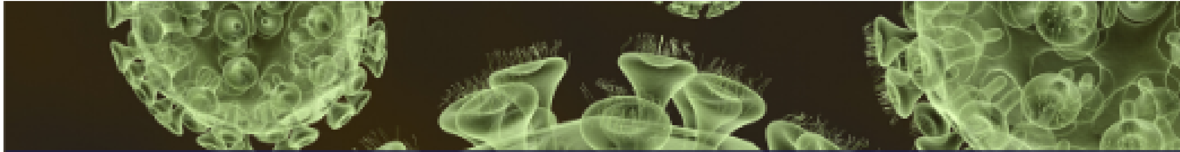

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Continued: Small Business Administration Provides Flexibility To Paycheck Protection Program

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4 NEW RELIEF BASED ON EMPLOYEE AVAILABILITY

The PPPFA provides new relief for borrowers who remain partially or fully closed through December 31, 2020. Specifically, the legislation provides that a borrower's loan forgiveness amount will not be reduced if during the period beginning February 15, 2020 and ending on December 31, 2020 the borrower experiences a reduction in FTE's and in good faith is able to document:

- An inability to rehire individuals who were employees of the eligible recipient on February 15, 2020
- An inability to hire similarly qualified employees for unfilled positions on or before December 31, 2020, or
- An inability to return to the same level of business activity as such business was operating at before February 15, 2020, due to compliance with requirements established or guidance issued 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 during the period beginning on March 1, 2020, and ending December 31, 2020, related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID–19.

5 EXTENSION OF TIME TO REPAY LOAN PROCEEDS

The PPPFA provides an extension of the amount of time to repay a PPP loan that has not been forgiven. Previously, the SBA established a maximum 2-year maturity with regards the loan. The PPPFA extends the non-forgiven portion of the loan to a maximum 5-year maturity.

The bill indicates that this applies to loans that begin as of the enactment date of the new legislation but lenders are able to renegotiate the terms of the original PPP loan to match the new 5-year maturity.

6 DEFERRAL OF CERTAIN PAYROLL TAXES

As part of the CARES Act, certain taxpayers were able to defer the employer share of their 2020 social security tax (6.2%) until the end of 2021 (50%) and the end of 2022(50%). Previously, borrowers of the PPP loan were not eligible for the deferral.

The PPPFA now allows PPP loan recipients to defer their employer share of social security taxes.

Next Steps & Ways Restivo Monacelli Can Assist You:

As with everything PPP–related thus far, unanswered questions still remain. It is anticipated that additional guidance from the SBA or Treasury will be issued in the coming days/weeks to resolve unanswered questions but this relief allows many borrowers much needed additional time. If you have any questions please do not hesitate to contact us. We are here to assist you during this time of great uncertainty.

If you have any questions, please reach out to a member of our team at 401-273-7600.