2020 PPP Flexibility Law Highlights

On June 5, 2020, the PPP Flexibility Act (PPPFA) was signed into law. The primary benefit of this new legislation is that is gives Paycheck Protection Program Loan borrowers additional time to qualify for loan forgiveness and eases some requirements.

Additional details and guidelines from the Small Business Administration (SBA) is expected soon on how this new legislation will impact PPP loan recipients. In the meantime, here are a few highlights, so you can begin to decide which course of action is best for your business:

- The covered period during which PPP funds used for eligible payroll and non-payroll expenses can qualify for forgiveness has been expanded from 8 weeks to 24 weeks, or until December 31, 2020, whichever is earlier. Existing borrowers retain the option to utilize the 8-week period, however, if you decide to extend to 24 weeks, you may desire to evaluate the impact of PPP loan payments, as they would start in the seventh month.
- The amount of loan proceeds that businesses must use for payroll costs in order to receive loan forgiveness is reduced from 75% to 60% during the covered period. Under the new rules, eligible non-payroll business expenses can account for as much as 40% of the forgiven loan amount. Note: According to the Law's as worded, borrowers must spend at least 60% of the loan proceeds on payroll costs to qualify for ANY loan forgiveness. Be careful to use no more than 40% of the PPP loan for non-payroll costs.
- The period in which borrowers must restore full-time employee (FTE) counts is extended from June 30 to December 31. This extension, in combination with the loan forgiveness period extension, gives businesses more time to bring their FTE count and salaries/wages up to February 15 levels. If this requirement is met and 100% of the loan proceeds go to payroll costs, the entire loan will likely be forgiven.
- If a business cannot reach February 15 FTE counts as a result of having to comply with health and safety requirements and restrictions put in place by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or OSHA during the period beginning March 1 and ending December 31, the resulting reduction in FTEs will not inversely impact their loan forgiveness. The same would apply if a business is unable to rehire individuals who were employees on February 15 and unable to hire similarly qualified employees for unfilled positions by December 31.
- Under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), a business with a PPP loan could defer payments of the employer's share of 2020 Social Security taxes until they are granted forgiveness of their PPP loan. This has been amended to allow businesses that receive PPP loan forgiveness to continue delaying payment of these taxes.

If you have questions or would like more details, please contact our office. Thank you.