

National Savvy. Local Sensibility.

# PAYCHECK PROTECTION PROGRAM FLEXIBILITY ACT OF 2020 (PPPFA)

# DISCLAIMER...

**EVERYTHING YOU ARE ABOUT TO  
HEAR IS SUBJECT TO CHANGE!!**

## OBJECTIVES FOR TODAY

- A Brief History of the PPP Loan Program
- Overview of the PPP Flexibility Act of 2020
- Unanswered Questions
- FAQs and Strategies for What to do Next
- Update re: PPP Loan Forgiveness Workbook

# A TIME-LINE OF EVENTS

- COVID – 1 – March 6, 2020 – \$8.3 Billion  
Coronavirus Preparedness Response Supplemental and Appropriations Act
- COVID – 2 – March 18, 2020  
Families First Coronavirus Response Act
- COVID – 3 – March 28, 2020 – \$2.2 Trillion  
Coronavirus Aid, Relief, and Economic Security Act
- COVID – 3.5 – April 24, 2020 – \$489 Billion
- COVID – 4 – June 5, 2020 - \$0  
PPP Flexibility Act  
Passed the House 417-1 May 28, 2020  
Passed the Senate unanimously June 3, 2020  
Signed by White House June 5, 2020

# PPP FLEXIBILITY ACT

SUMMARIZED IN 4 CATEGORIES:

1. The Covered Period
2. Loan Forgiveness
3. Loan Terms
4. Payroll Tax Deferral

# 1. DEFINING THE COVERED PERIOD

## COVERED PERIOD FOR OBTAINING A LOAN

- CARES – obtain a loan prior to June 30, 2020
- PPPFA – obtaining a loan unchanged, prior to June 30, 2020

## COVERED PERIOD FOR SPENDING THE LOAN PROCEEDS

- CARES – spend proceeds by June 30, 2020
- PPPFA – extended to December 31, 2020

# 1. DEFINING THE COVERED PERIOD

## COVERED PERIOD FOR LOAN FORGIVENESS

- CARES – begins date of loan disbursement and ends 8-weeks later
- PPPFA – begins date of loan disbursement and ends 24-weeks later or December 31, whichever first

## COVERED PERIOD – A CHOICE FOR LOANS BEFORE JUNE 5, 2020

- CARES – no choice, ended after 8-weeks
- PPPFA – choose 8-weeks or 24-weeks, whichever is better

# SPENDING THE LOAN PROCEEDS

COSTS	ALLOWABLE	FORGIVABLE
Time Period	December 31	8 or 24-weeks
Payroll Costs ( <a href="#">as defined</a> )	YES	YES
Compensation in Excess of \$100,000	YES	NO
Group Healthcare Benefits During Periods of Paid Sick, Medical, or Family Leave	YES	NO
Payments of Interest on Any Mortgage Obligation*	YES	YES**
Interest on Any Other Debt Obligation**	YES	NO
Rent	YES	YES**
Utilities	YES	YES**
Other SBA 7(a) Allowable Costs ***	YES	NO

\* Floorplan Interest – Maybe. Waiting on Regulations. Maybe it won't matter.

\*\* In place before February 15, 2020

\*\*\* SBA 7(a) costs confirmed allowable



## 2. LOAN FORGIVENESS REDUCED

### THREE WAYS FOR REDUCTION IN LOAN FORGIVENESS

1. Salary and Wage Reduction – No Changes
2. FTE Reduction
3. 75% of Forgivable Amount Reduction

## 2. FTE REDUCTION

- CARES – No exemptions
- SBA/TREASURY – Some things out of your control – added “Good Faith” exemption
- APPLICATION – 3 additional FTE exemptions
- PPPFA – A new FTE reduction exemption:
  - Inability to re-hire prior employees -AND-
  - Inability to hire similarly qualified employees -OR-
  - Inability to return to same level of business activity due to compliance issues – HHS, CDC, OSHA – related to maintenance of standards for sanitation, social distancing, worker and employee safety

## 2. RE-HIRE SAFE HARBOR PROVISIONS

- CARES – June 30, 2020
- PPPFA – December 31, 2020

Applies to both the Salary and Wage safe harbor and the FTE safe harbor.

## 2. PAYROLL COST LOAN FORGIVENESS REDUCTION

- CARES – Nothing
- SBA/TREASURY – 75% of the forgivable balance had to be expended on payroll costs
- PPPFA – 60% of the forgivable balance has to be expended on payroll costs

## 2. APPLYING FOR LOAN FORGIVENESS

- CARES – No deadline for applying. Once applied for the lender had 60-days to approve.
- PPPFA – Can apply up to 10 months after the end of the 8 or 24-week period. Lender still has 60-days to approve.

## 3. EXTENSION OF DEFERRAL PERIOD

- CARES – Principal, interest and fees will be deferred not less than 6 months and not more than 12 months.
- PPPFA – Principal, interest and fees will be deferred until the lender receives payment of the forgiven amount from the federal government.

## 3. AN EXAMPLE TIMELINE

Loan received: April 6, 2020

24-week period ends: September 20, 2020

10 months to apply for forgiveness: July 20, 2021

60-days to approve: September 17, 2021

Government funds loan forgiveness: December 15,  
2021

Deferral term: approximately **21 months**

## 3. THE LOAN TERM

- After forgiveness has been calculated the amount not forgiven is converted to a loan.
- CARES: Loan term not more than 10 years
- SBA/TREASURY: Loan term reduced to 2 years
- PPPFA: 1.) Loans already in existence  
2.) New loans



## 4. PAYROLL TAX DEFERRAL

- CARES: If forgiven loan, then ineligible
- SBA/Treasury: Payroll tax deferral to borrowers receiving loans up until they received forgiveness under the PPP program
- PPPFA: This limitation is waived and deferral is available to all borrowers

# QUESTIONS STILL UNANSWERED

- The definition of utilities includes “transportation”. What is that?
- Does floorplan interest count as mortgage interest? Is floorplan interest on a unit-by-unit basis as of 2/15?
- Do I have to spend 60% of the total loan proceeds on payroll costs? What happens if I don’t?
- Is the income really tax-free or does the loan generate non-deductible expenses?
- What amount converts to term loan?
  - Loan proceeds less amount forgiven -OR-
  - Allowable costs less amount forgiven

# QUESTIONS STILL UNANSWERED

- Payroll and nonpayroll costs Incurred OR Paid – More than 8 or 24-weeks?
- Does “owner-employee” include corporate shareholders?
- Do attribution rules apply to owners?
- Are owner benefits forgivable?
- FTE Safe Harbor – As of December 31 vs. Not Later Than December 31 – **BIG DEAL**
- Any restrictions on FTE or Wage After 8-weeks/24-weeks? After December 31?
- What does “level of business activity” mean in the new employee availability safe-harbor?
- What will the new application look like? Will the ordering of the limitations change?

# FAQs

- My 8-weeks is up, can I start laying people off?
- Will my loan be taxable?
- At the end of 8 weeks, I will have spent 85% of my PPP funds. By week 10, I will have spent the rest. Can I apply for forgiveness after week 10?
- My 8 weeks ends this week and I want to use the 8 weeks. Can I apply for forgiveness this week?
- When do I need to decide if I am using 8 weeks or 24 weeks?
- What decisions do I need to make before the 8 weeks ends if I am not sure which period I want to use?

# FAQs

- Is the per employee limit still \$15,385 for the 24 weeks?
- With 24 weeks I will likely spend way more than the total amount of my loan. How do I determine if I should spend my PPP money on payroll vs non-payroll costs?
- Which will be better for me – 8 weeks or 24 weeks?
- If I elect the 8 weeks, can I still use June 30 as the safe harbor date?
- Are you updating the workbooks?

# STRATEGIES FOR IMPLEMENTING

Understand how to achieve full forgiveness (or maximum forgiveness)!

Requires tracking 3 primary amounts:

- Total amount of funds spent during forgiveness covered period – 8 weeks or 24 weeks
- Monitoring employee rates of pay during covered period – 8 weeks or 24 weeks and possibly Dec 31 as well
- Monitoring FTE count during covered period – 8 weeks or 24 weeks and possibly at Dec 31 as well

# STRATEGIES FOR IMPLEMENTING

- Take advantage of payroll tax deferral
- Wait for 24 weeks to pass, determine if 8 week or 24 week period is better
- Take your time – repayment can be deferred 18+ months
- Re-evaluate payplans and guarantees
- Re-evaluate staffing needs

# PPP LOAN WORKBOOK

- Being updated – new version won't be issued until new application published
- Will include 24-weeks of data input cells
- Will incorporate 8-week and 24-week calculations
- Will incorporate all other PPPFA law changes
- Will include filled in application and supporting schedules
- Excellent tool for doing “what-if” analysis and documenting your forgiveness calculations



# PPP LOAN WORKBOOK

- We are available to assist with you loan forgiveness application
- Advisory services include:
  - Assisting with completion of workbook and loan forgiveness application
  - Responding to questions regarding implementing PPP Loan program
  - Assisting with “what-if” analysis for maximum loan forgiveness
  - Strategies to maximize loan forgiveness

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# QUESTIONS?

Barton D. Haag, CPA

[bhaag@arbcpa.com](mailto:bhaag@arbcpa.com)

207-518-6803

Matthew J. Pore, CPA

[mpore@arbcpa.com](mailto:mpore@arbcpa.com)

207-772-1981

Holly D. Ferguson, CPA

[hferguson@arbcpa.com](mailto:hferguson@arbcpa.com)

207-772-1981

[ARBCPA.COM](http://ARBCPA.COM)