

PPP Flexibility Act of 2020



Presented to: PAA

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Objective

- Raise your level of awareness on how the most recent changes in the PPP program will impact your dealership

Agenda

- Review the provisions of the PPP Flexibility Act of 2020
- Review Open Questions
- Review Most Frequently Asked Questions
- Review Implementation Strategies

Updates Since May 21, 2020

- No new FAQs have been issued
- 4 additional IFRs have been issued
 - Mostly clarifications of the application and updates for the new law
- PPP Flexibility Act of 2020 Written, Voted and Passed
- Treasury hints at what is coming next

H.R. 7010

- May 28 – Passed by House
- June 3 – Passed by Senate
- June 5 – Signed by White House

Loan Maturity

- Original Law: Not More Than 10 Years
- Treasury/SBA: 2 Years
- New Law: Not Less than 5, Not More Than 10
- Treasury/SBA: 5 years
 - Prospective Basis
 - Only part of law that is not retroactive
 - However, borrowers and lenders can mutually agree to change existing loans

Extension of 1102 Covered Period

- Time Period to Apply for Funds
 - Unchanged: June 30, 2020

- Time Period to Spend the Funds
 - Old Law: June 30, 2020
 - New Law: December 31, 2020

Extension of 1106 Covered Period

- Old Law: 8 weeks from disbursement date
- New Law: 24 weeks from disbursement date OR December 31, 2020 – whichever comes first
 - Note: If loan funded on or before June 5, 2020 borrower can opt to maintain original 8 weeks

Re-Hire Provisions

- Old Law: June 30, 2020
- New Law: December 31, 2020

- Relates to both the FTE and the Salary/Wage

FTE Exemptions

- Old Law: None
- Treasury/SBA Regulations issued after Law:
 - FAQ 40: Good Faith Effort to Rehire
 - Application: Fired for Cause; Voluntarily Resigned, Voluntarily Reduced Hours

FTE Exemptions

- New Law:
 - In addition to Treasury/SBA Regulations:
 - Inability to Rehire 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 – Relating to Maintenance of Standards for Sanitation, Social Distancing, Worker & Employee Safety

Limitation on Forgiveness

- Old Law: None
- SBA/Treasury: Min 75% Payroll, Max 25% Non-Payroll
 - Pro-Rated
- New Law: Min 60% Payroll, Max 40% Non-Payroll
 - Cliff
 - Congress has identified this as a problem they would like to correct
- SBA has indicated will not interpret as a cliff

Deadline to Apply for Forgiveness

- Old Law: Silent
- SBA/Treasury: Silent
- New Law: Within 10 months after the last day of the covered period

Extension of Deferral Period

- Old Law: Not Less than 6 months, Note More than 12
- SBA/Treasury: 6 months
- New Law: Deferred until amount of forgiveness is remitted to the lender by the federal government

Delay of Payment of Payroll Taxes

- Old Law: Ineligible if PPP forgiveness received
- Treasury/SBA: Eligible until PPP forgiveness received
- New Law: Eligible regardless

Taxation of PPP Proceeds

- Old Law: Forgiveness is NOT taxable
- IRS: Therefore, expenses are NOT DEDUCTIBLE
- New Law: Unfortunately, silent
 - Some in Congress have identified this as a problem they would like to correct

Questions Unanswered (May 21)

- Does floorplan interest count as “mortgage” interest? **Does it matter?**
- Is floorplan interest on a car by car basis (Feb 15)? **Does it matter?**
- The definition of utilities includes “transportation”. What is that? **Does it matter?**
- Do the other SBA 7(a) loan allowable costs qualify? **Yes – but does it matter?**
- Is it really tax-free income or does the loan generate non-deductible expenses? **Unresolved**

New Questions Raised (May 21)

- Does “owner-employee” include corporate shareholders?
- Do attribution rules apply to owners?
- Are owner benefits forgivable?
- FTE Safe Harbor – “As of” Dec 31 vs. “Not Later Than” Dec 31
- Incurred OR Paid – More than 8 (24) weeks?
- Future changes? YES, the new law was passed

Frequently Asked Questions

- 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?

Frequently Asked Questions

- 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?

Implementation Strategies

Achieving 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

Implementation Strategies

- 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
- Stop worrying about floorplan interest – probably doesn't matter

Questions?



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Thank You



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