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New Legislation Extends PPP Loan Applications Through August 8, 2020

Presented by FourFront Advisors

The Paycheck Protection Program (PPP) was created to provide loans to support small businesses and save jobs during the COVID-19 pandemic. New legislation seeks to clarify some of the confusion created by ongoing interpretation and retroactive adjustments to this program.

On July 3, 2020, the PPP Extension Act of 2020 was signed into law. This law extends the PPP loan application deadline to August 8, 2020. Meanwhile, the Treasury continues to issue further guidance on the loan forgiveness aspect of this program.

Approved Uses for PPP Loans

There are specific use guidelines for expenses PPP funds may be used to cover, including:

- Payroll costs, such as salary, wages, commissions, or tips
- Payments for vacation, parental, family, medical, or sick leave
- Payments for group health care benefits, including insurance premiums
- Payments for retirement benefits
- Employee state or local payroll taxes
- Mortgage loan interest (excluding prepayment)
- Utilities
- Rent, including some equipment rental costs

The prepayment of mortgage interest is excluded.

Loan Forgiveness

Previous bills contained several critical provisions providing additional flexibility for loan forgiveness:

1. The covered period for this program has been extended from June 30, 2020, to December 31, 2020.
2. The borrower may use 60 percent of the loan for approved payroll costs and the remaining 40 percent for other approved expenses. This replaces the previous guidance of using up to 75 percent for approved payroll costs and 25 percent for other approved expenses, such as rent or utilities. The Treasury clarified on June 8 that a borrower using less than 60 percent of the loan amount for payroll costs during the forgiveness-covered period still qualifies for partial forgiveness if at least 60 percent of the amount forgiven was used for payroll costs.

3. The new law continues to allow borrowers to extend the covered period for forgiveness from 8 weeks to the *earlier* of 24 weeks from the origination date or December 31, 2020. A borrower who received a loan prior to June 5, 2020, can choose to continue under the original 8-week period.
4. There is additional flexibility for borrowers to help them avoid a reduction of their loan forgiveness amount because of a reduction in employees during the period extending from February 15, 2020, through the end of the year. The program rules specify the following:
    a. If employers make a good-faith effort to rehire the same or similar qualified employees, their loan forgiveness amount will not be reduced.
    b. If borrowers can document they were unable to meet the rehire requirements between March 1 and December 31 because of COVID-19 sanitation and social distancing rules, their loan forgiveness amount will not be reduced.

    Borrowers will be responsible for providing documentation to support the good-faith rehire provisions.
5. The previous six-month deferment period for payment of principal, interest, and fees is extended to the date the determined loan forgiveness amount is remitted to the lender.
6. If the borrower fails to apply for loan forgiveness within 10 months of the last day of the loan forgiveness covered period, payments of principal, interest, and fees must commence on the balance of the loan.
7. Loans remaining after forgiveness will have a 1 percent fixed interest rate and a five-year maturity period. This replaces the original two-year maturity period. At this time, it appears this applies only to loans entered into on or after June 5, 2020. Borrowers with loans in place prior to this act may negotiate with their lenders to extend the maturity period.

Maintain Precise Documentation

Anyone receiving a PPP loan should be able to support, with clear and precise financial documentation, the need for these funds (e.g., "but for" the PPP loan, we would need to furlough or fire employees). Financial projections at both an industry and microbusiness level must support the borrower's certification in good faith of the need. Consider documenting monthly expense "burn rates" or creating easy-to-track expense payments that clearly demonstrate how the PPP loan funds were used during the covered period. This also extends to the documentation of the loan forgiveness application. The Treasury and Small Business Administration have promised further guidance on the loan forgiveness application and documentation process.

This has been a challenging time for many small business owners. Be sure to keep an eye out for additional announcements from the Treasury and SBA regarding PPP loans and reach out to your professional advisors and banker for guidance.

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