



PPP Loan Forgiveness Update

Last night, the Senate advanced the Paycheck Protection Program Flexibility Act (HR 7010) through unanimous consent. The bill provides borrowers more time to use forgivable loans through the Small Business Administration's (SBA) Paycheck Protection Program (PPP) as well as greater flexibility on how the funds can be spent. The House passed the measure last week and the President is expected to sign it into law shortly.

The PPP Flexibility Act will not be the last legislative fix for the popular COVID-19 loan relief program, but rather a hurried attempt to make tweaks as borrowers approach the end of the first 8-week cycle in the coming days. The Senate Small Business Committee Chairman Marco Rubio (R-FL) indicated additional technical corrections to the PPP would be forthcoming in legislation he is still working on.

The PPP Flexibility Act:

- Extends the loan forgiveness time frame from 8 weeks to 24 weeks (or December 31, 2020, whichever is earliest).
- Changes the 75%-25% rule for payroll/non-payroll costs to require "at least 60% of the covered loan amount for payroll costs and up to 40%" for non-payroll costs.
- Extends the deadline of the safe harbor for rehiring or restoration of pay to December 31, 2020 to align with federal pandemic unemployment benefits.
- Expands the safe harbor provisions so that employers may obtain loan forgiveness where the employer **cannot restore their workforce to pre-February 15, 2020 levels due to compliance with COVID-19 government guidance or social distancing standards or is unable to rehire qualified employees.**
- Permits borrowers to defer SBA loan payments until the forgiveness determination is made.
- Extends the repayment period for any amounts not forgiven from two to five years.
- Allows employers who take PPP loans to take advantage of the CARES Act provision that permits deferring the employer's share of FICA payroll taxes for two years. Half of the payroll taxes will be due in 2021, with the rest due in 2022.

The PPP Flexibility Act does not add additional funding to the PPP. At the end of May, the SBA reported that funds remain available for loans. Prior to the bill's passage, the AVMA joined over 225 other organizations urging Congress to provide greater flexibility and clarity on the PPP. And while the bill addresses some of these issues like extending the timeline to spend the funds, it failed to reverse the IRS ruling that would prohibit tax deductions for PPP forgivable expenses. This remains a sticking point for many members of Congress and AVMA is involved in efforts to reverse this ruling.

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