

PPP FLEXIBILITY ACT

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TODAY'S PRESENTERS



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AGENDA

- ▶ PPP Flexibility Act
- ▶ PPP Loan Forgiveness Expanded
- ▶ Updated Forgiveness Forms
- ▶ What's Next

PPP FLEXIBILITY ACT

The Paycheck Protection Program Flexibility Act of 2020 ([H.R. 7010](#)) (PPP Flexibility Act), enacted on June 5, 2020, makes welcome changes to the forgiveness rules for Paycheck Protection Program (PPP) loans made to small businesses in response to the novel coronavirus global pandemic (COVID-19).

- ▶ [Interim Final Rule on Revisions to First Interim Final Rule](#) (originally posted 6/11/2020)
- ▶ [Interim Final Rule on Additional Revisions to First Interim Final Rule](#) (6/12/2020)
- ▶ [Interim Final Rule on Revisions to the Third and Sixth Interim Final Rules](#) (6/17/2020)

PPP FORGIVENESS COVERED PERIOD EXPANDED

Extends the “covered period” for PPP loan forgiveness from eight weeks after loan origination to the earlier of (i) 24 weeks after loan origination or (ii) December 31, 2020. Borrowers who received their loans before this change can elect to use their original or alternative payroll eight-week covered period.

For each individual employee, the total amount of cash compensation eligible for forgiveness may not exceed an annual salary of \$100,000, as prorated for the Covered Period. For an 8-week Covered Period, that total is \$15,385. For a 24-week Covered Period, that total is \$46,154.

For Borrowers using a 24-week Covered Period, this amount is capped at \$20,833 (the 2.5-month equivalent of \$100,000 per year) for each individual or the 2.5-month equivalent of their applicable compensation in 2019, whichever is lower. For Borrowers using an 8-week Covered Period, this amount is capped at \$15,385 (the eight-week equivalent of \$100,000 per year) for each individual or the eight-week equivalent of their applicable compensation in 2019, whichever is lower.

REHIRE DATE CHANGE AND NEW SAFE HARBORS

- ▶ Replaces the June 30, 2020, date for the rehire safe harbor with December 31, 2020.
- ▶ Expands the rehire exception based on the non-availability of former employees and applies that exception when the need for workers is reduced to comply with COVID-19 standards. Specifically, PPP loan forgiveness would not be reduced due to a lower number of full-time equivalent (FTE) employees if:
 - ▶ • The employer is unable to rehire individuals who were employed by the employer on February 15, 2020, and the employer shows the inability to hire similarly qualified employees for unfilled positions on or before December 31, 2020, or
 - ▶ • The employer documents its inability to return to the same level of business activity as it had before February 15, 2020, due to having to comply new COVID-19 standards for sanitation, social distancing or other safety requirements during the period of March 1 through December 31, 2020.

REDUCTION TO 60% PAYROLL COSTS

- ▶ 4. Allows up to 40% of the loan proceeds to be used on mortgage interest, rent or utilities (previously such expenses were capped at 25% of the loan proceeds), while at least 60% of the PPP funds must be used for payroll costs (down from the 75% that was noted in SBA guidance). This applies even if the borrower elects to use the eight-week covered or alternative payroll covered period.
- ▶ This was clarified and is not a “cliff”. For example, if a borrower receives a \$100,000 PPP loan, and during the covered period the borrower spends \$54,000 (or 54 percent) of its loan on payroll costs, then because the borrower used less than 60 percent of its loan on payroll costs, the maximum amount of loan forgiveness the borrower may receive is \$90,000 (with \$54,000 in payroll costs constituting 60 percent of the forgiveness amount and \$36,000 in nonpayroll costs constituting 40 percent of the forgiveness amount).

POTENTIAL 5YR TERM AND 10 MONTHS TO REQUEST FORGIVENESS

- ▶ 5. Provides a five-year term for all new PPP loans disbursed after June 5, 2020. Loans disbursed before that date would retain their original two-year term unless the lender and borrower renegotiate the loan into a five-year term.
- ▶ 6. Changes the six-month deferral period for loan repayments and interest accrual so that payments on any unforgiven amounts will begin on either (i) the date on which loan forgiveness is determined or (ii) 10 months after the end of the borrower's covered period if forgiveness is not requested.

PPPFA EXAMPLE

Loan amount	250,000	
Forgiveness Amount Calculation:	Original 8 week	24 week
		33% reduction in force
<u>Payroll and Nonpayroll Costs</u>		
Line 1. Payroll Costs (enter the amount from PPP Schedule A, line 10):	200,000	464,000
Line 2. Business Mortgage Interest Payments:	11,000	33,000
Line 3. Business Rent or Lease Payments:	1,000	3,000
Line 4. Business Utility Payments:	1,000	3,000
<u>Adjustments for Full-Time Equivalency (FTE) and Salary/Hourly Wage Reductions</u>		
Line 5. Total Salary/Hourly Wage Reduction (enter the amount from PPP Schedule A, line 3):	-	-
Line 6. Add the amounts on lines 1, 2, 3, and 4, then subtract the amount entered in line 5:	213,000	503,000
Line 7. FTE Reduction Quotient (enter the number from PPP Schedule A, line 13):	0.90	0.59
<u>Potential Forgiveness Amounts</u>		
Line 8. Modified Total (multiply line 6 by line 7):	191,700	298,782
Line 9. PPP Loan Amount:	250,000	250,000
Line 10. Payroll Cost 75% Requirement (divide line 1 by 0.75):	266,667	618,667
<u>Forgiveness Amount</u>		
Line 11. Forgiveness Amount (enter the smallest of lines 8, 9, and 10):	191,700	250,000

PAYROLL TAX DEFERRAL EXPANDED

- ▶ In addition to PPP loan changes, the bill allows all employers, even those with forgiven PPP loans, to defer the payment of 2020 employer's Social Security taxes, with 50% of the deferred amount being payable by December 31, 2021, and the balance due by December 31, 2022. Previously, the CARES Act prohibited such payroll tax deferral after a borrower's PPP loan was forgiven.

CAN I APPLY ANYTIME AFTER THE 8 WEEKS?

- ▶ The statute does not appear to allow borrowers to request PPP loan forgiveness as soon as they spend all of their PPP funds in the ninth to 24th weeks following receipt of their PPP funds.
- ▶ Absent additional guidance, it seems that borrowers must wait until the end of the 24-week period to request PPP loan forgiveness, unless they elect to use the original eight-week period (regular or alternative payroll covered period).
- ▶ However, you can apply before December 31, 2020. Safe harbors for excluding salary and hourly wage reductions and reductions in the number of employees (full-time equivalents) from loan forgiveness reductions can be applied as of the date the loan forgiveness application is submitted. Borrowers don't have to wait until Dec. 31 to apply for forgiveness to use the safe harbors.

UPDATED FORMS FROM SBA

[Loan Forgiveness Application Form EZ Instructions](#)

[Loan Forgiveness Application Form EZ](#)

[Loan Forgiveness Application Instructions](#) (revised 6/16/2020)

[Loan Forgiveness Application](#) (revised 6/16/2020)

Forms have been updated and are available at www.sba.gov or www.treasury.gov

EZ FORM REQUIREMENTS

Checklist for Using SBA Form 3508EZ

You (the Borrower) can apply for forgiveness of your Paycheck Protection Program (PPP) loan using this SBA Form 3508EZ if you can check at least one of the three boxes below. Do not submit this Checklist with your SBA Form 3508EZ.

- ☐ The Borrower is a self-employed individual, independent contractor, or sole proprietor who had no employees at the time of the PPP loan application and did not include any employee salaries in the computation of average monthly payroll in the Borrower Application Form (SBA Form 2483).
- ☐ The Borrower did not reduce annual salary or hourly wages of any employee by more than 25 percent during the Covered Period or the Alternative Payroll Covered Period (as defined below) compared to the period between January 1, 2020 and March 31, 2020 (for purposes of this statement, “employees” means only those employees that did not receive, during any single period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000);

AND

The Borrower did not reduce the number of employees or the average paid hours of employees between January 1, 2020 and the end of the Covered Period. (Ignore reductions that arose from an inability to rehire individuals who were employees on February 15, 2020 if the Borrower was unable to hire similarly qualified employees for unfilled positions on or before December 31, 2020. Also ignore reductions in an employee’s hours that the Borrower offered to restore and the employee refused. See [85 FR 33004](#), 33007 (June 1, 2020) for more details.

- ☐ The Borrower did not reduce annual salary or hourly wages of any employee by more than 25 percent during the Covered Period or the Alternative Payroll Covered Period (as defined below) compared to the period between January 1, 2020 and March 31, 2020 (for purposes of this statement, “employees” means only those employees that did not receive, during any single period during 2019, wages or salary at an annualized rate of pay in an amount more than \$100,000);

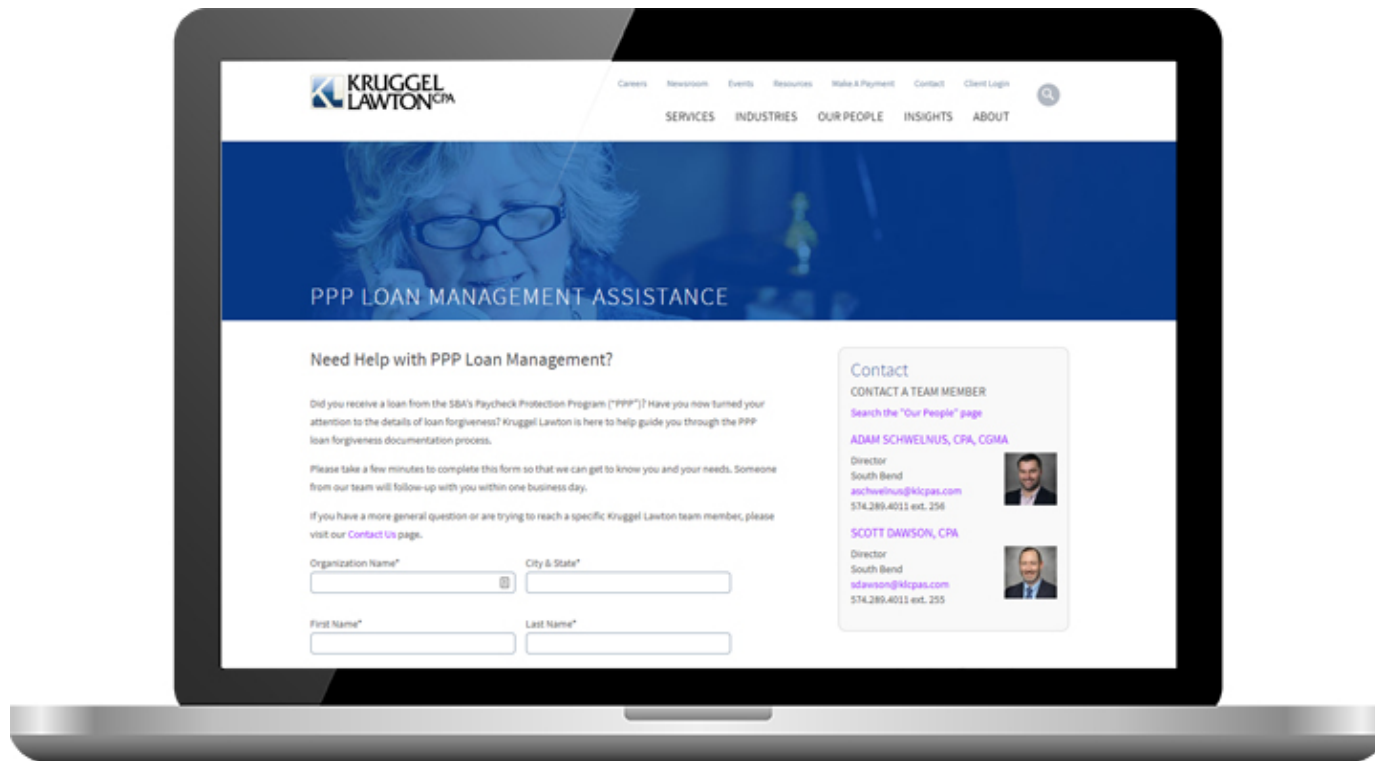
AND

The Borrower was unable to operate during the Covered Period at the same level of business activity as before February 15, 2020, due to compliance with requirements established or guidance issued between March 1, 2020 and December 31, 2020 by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration, related to the maintenance of standards of sanitation, social distancing, or any other work or customer safety requirement related to COVID-19.

WHAT'S NEXT

- ▶ Based on changes in PPPFA, raised expectations of full forgiveness for most borrowers.
- ▶ Support documentation for forgiveness for 24 week covered period may be less demanding, i.e. payroll reports only needed to meet full-forgiveness, example.
- ▶ Forgiveness application submission will have to wait until lenders have final guidance and are ready to accept them, look for communication from lender related to their process.
- ▶ Funds still available, but applications only being accepted until June 30, 2020.

www.klcpas.com/ppp-loan-management-assistance/





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Thank You!