

## OBSERVATIONS

### CARES Act – AMENDING LEGISLATION JUNE 3, 2020

June 4, 2020

On Wednesday June 3, 2020, the U.S. Senate passed the House version of legislation amending the Paycheck Protection Program (PPP). The “Paycheck Protection Flexibility Act” (the “Bill”) will go to President Donald Trump, who is expected to sign it. The major feature of the Bill is the increase in the time allotted for PPP loan recipients to spend the funds from eight (8) weeks to twenty-four (24) weeks.

The main points on the Bill are:<sup>1</sup>

- PPP borrowers can choose to extend the eight-week period to 24 weeks, or they can keep the original eight-week period. This flexibility is designed to make it easier for more borrowers to reach full, or almost full, forgiveness.
- The payroll expenditure requirement drops to 60% from 75%. However, it is now a cliff, meaning that borrowers must spend at least 60% on payroll or none of the loan will be forgiven. Currently, a borrower is required to reduce the amount eligible for forgiveness if less than 75% of eligible funds are used for payroll costs, but forgiveness is not eliminated if the 75% threshold is not met.
- Borrowers can use the 24-week period to restore their workforce levels and wages to the pre-pandemic levels required for full forgiveness. This must be done by December 31, a change from the previous deadline of June 30.
- The legislation includes two new exceptions allowing borrowers to achieve full PPP loan forgiveness even if they do not fully restore their workforce. Previous guidance allowed borrowers to exclude from those calculations for the employees who turned down good faith offers to be rehired at the same hours and wages as before the pandemic. The new Bill allows borrowers to make an adjustment because they could not find qualified employees or were unable to restore business operations to February 15, 2020 levels due to COVID-19 related operating restrictions.
- Borrowers now have five years to repay the loan instead of two. The interest rate remains at 1%.
- The Bill allows businesses that took a PPP loan to also delay payment of their payroll taxes, which was prohibited under the CARES Act.

<sup>1</sup> See <https://www.journalofaccountancy.com/news/2020/jun/ppp-loan-forgiveness-changes-coming.html>

Businesses should review and consider these changes and determine what may work best in their situation. Also, as the rules and regulations are continually being updated and altered, we encourage business owners to try and stay current on the updates in the regulations and legislation. Obviously, an important consideration is the extent that the Bill will require the Interim Final Rules issued by the SBA to be altered.

We will provide subsequent blogs as information becomes available and for businesses to utilize as they maneuver through this ever-changing landscape.

**MALONEY & KENNEDY, PLLC**