
PAYCHECK PROTECTION PLAN FLEXIBILITY ACT

H.R. 7010 the Paycheck Protection Program Flexibility Act of 2020 (the Flexibility Act)

Major Changes to the PPP Program.

The Small Business Administration released Policy Guidance on the Paycheck Protection Plan called “*PPP Interim Final Rule on Additional Revisions to First Interim Final Rule*”.

1. “Covered Period” during which forgivable expenses are captured

ORIGINAL 8 weeks

REVISED 24 weeks or 12/31/2020

CHANGE The funds from the PPP loan were to be used during an 8-week period starting at the loan disbursement. The funds can now be used during a 24-week period with 12/31/2020 being the end date. Those churches with a loan received prior to the Flexibility Act may still use the 8-week period.

2. Reduction of the payroll costs expenditure threshold

ORIGINAL 75 %

REVISED 60 %

CHANGE To receive loan forgiveness, 75 % of the funds from the PPP loan were to be used for payroll costs. The threshold has now been lowered to 60%. Partial loan forgiveness remains if the 60 % threshold is not met.

3. Extension of the PPP Loan Program

ORIGINAL 6/30/2020

REVISED 12/31/2020

CHANGE The original PPP loan program was to last only until 6/30/2020 or until the loan funding ran out. The Flexibility Act extends the PPP loan program through 12/31/2020. **HOWEVER**, the SBA and the U.S. Department of the Treasury issued a statement that included confirmation that 6/30/2020 “remains the last date on which a PPP loan application can be approved.”

4. Extension of time to rehire workers

ORIGINAL 6/30/2020

REVISED 12/31/2020

CHANGE The PPP provided up until 6/30/2020 to rehire employees. The Flexibility Act provides more time for employers to restore their staff, up until 12/31/2020.

5. New exemption from proportional reduction in loan forgiveness amount

ORIGINAL maintenance of same FTEs

REVISED exemption based on employee availability

CHANGE The original program envisioned full employment of original staff by 6/30/2020. The Flexibility Act creates a second exemption if the employer is unable to rehire or hire staff or is able to document an inability to return to the same level of business activity.

6. Loan maturity

ORIGINAL 2 years

REVISED 5 years

CHANGE The minimum maturity of a PPP loan entered into before the Flexibility Act is 2 years. Those loans entered into after the Flexibility Act have a minimum loan maturity of 5 years. Lenders and borrowers can “mutually agree to modify the maturity term of a [previously issued PPP loan]” to have a 5-year minimum maturity.

7. Extension of the loan deferral period

ORIGINAL not less than 6 months or longer than one year

REVISED begins with the disbursement of the loan funds and ends on the date on which the amount of forgiveness is remitted to the lender

CHANGE The funds from the PPP loan were to be repaid starting 6 months or up to a year after the loan disbursement. The Flexibility Act changes that to the date the borrower submits the application for forgiveness. The Flexibility Act provides that if a borrower fails to apply for loan forgiveness “within 10 months after the last day of the covered period” the borrower must begin making payments of principal, interest, and fees. It is unclear as to whether the covered period is the 8 weeks or the 24 weeks.

8. Deferral of 2020 Payroll taxes

ORIGINAL none

REVISED 50 % deferred until 2021 and 50% until 2022.

CHANGE The Flexibility Act permits employers to defer the payment of 2020 employer payroll taxes. 50 % of the deferred taxes are then due in 2021, with the balance due in 2022. The deferral relates ONLY to the employer portion of Social Security and Medicare taxes.