

PAYCHECK PROTECTION PROGRAM FLEXIBILITY ACT – MULTIPLE RELAXATIONS FOR BORROWERS



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On June 3, 2020, the U.S. Senate passed the House version of the Paycheck Protection Program (PPP) Flexibility Act of 2020 which provides more flexibility for participants in the PPP program in terms of requirements for availing the loan, restrictions on utilizing the loan proceeds, utilizing other tax benefits simultaneously while availing the PPP loans, etc. The bill is now on the President’s desk and is expected to be signed.

KNAV is monitoring these developments closely and a summary of these updates is presented below:

Sr No	Point of Difference	CARES Act Provisions	PPP Flexibility Act Provisions
1	Deferral of employment taxes	Taxpayers availing the PPP loan were unable to defer the payment of the employer portion of social security taxes post forgiveness of their PPP loan.	The taxpayers can continue such deferral even post forgiveness of loan.
2	Covered Period	The existing PPP covered period for utilization of the loan proceeds (to be eligible for loan forgiveness) was spread over a period of 8 weeks from the disbursement of the loan proceeds.	This period has now been extended to 24 weeks, or December 31, 2020, whichever is earlier. The current PPP borrowers can elect to keep the original 8-week period as their covered period.
3	Utilization of loan proceeds	Currently, a borrower is required to reduce the amount eligible for forgiveness if less than 75% of loan proceeds are used for payroll costs, but forgiveness is not completely eliminated if the 75% threshold is not met.	The payroll expenditure requirement has been dropped to 60% from 75%. However, if borrowers do not spend at least 60% on payroll, none of their loan will be forgiven. A technical correction may be expected to bring back the proportionate mechanism for calculating loan forgiveness.
4	Time period for rehiring employees	Borrowers had to restore their workforce levels and wages to the pre-pandemic levels required for full forgiveness by June 30, 2020.	This deadline for restoring the workforce levels and wages has now been extended to December 31, 2020.

5	Exception for rehiring employees	The existing exception allowed borrowers to exclude from their calculations, employees who turned down good faith offers to be rehired at the same hours and wages as before the pandemic.	In addition to the already existing exception, two new exceptions have been introduced to allow borrowers to achieve full PPP loan forgiveness even if they do not fully restore their workforce. The exceptions are as follows: <ol style="list-style-type: none"> 1. The employer was unable to find qualified employees. 2. The employer was unable to restore their business operations to Feb. 15, 2020 levels due to COVID-19 related operating restrictions.
6	Minimum maturity	2 years	5 years (Existing borrows can mutually agree with their lenders to extend their loan term to 5 years).
7	Deferral of payment of the first PPP loan instalment	The deferral of payment of the first PPP loan instalment (including interest) is currently allowed until 6 months from the date of disbursement of the loan.	This deferral period has been extended to the date on which the amount of forgiveness is determined by SBA. If a borrower fails to apply for forgiveness within 10 months after the last day of the PPP loan forgiveness covered period, the borrower must then begin to make payments of principal, interest, and fees on its PPP loan.

It is also worth noting that the last date of application for PPP loans has remained unchanged (i.e., June 30, 2020).



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