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COVID-19 Pandemic
Paycheck Protection Program Flexibility Act
New Rules on Loan Forgiveness

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Paycheck Protection Program Flexibility Act

• Major Changes in Forgiveness Requirements.
• SBA New Forgiveness Application.
• Open Issues.
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Paycheck Protection Program Flexibility Act

- Major Changes in Forgiveness Requirements.
  - Extension of forgiveness period to 24 Weeks,
  - 75% Rule to 60%,
  - Number of FTEs,
  - Maintaining wages/salaries,
  - Term of loan,
  - Deferred Payment Time, and
  - Tax deferral.
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• Extension of forgiveness period to 24 Weeks.
  • Done a little late.
  • 24 weeks or December 31, 2020.
  • Can elect to have the covered period be 8 weeks.
    • Use 8 weeks if better for FTEs and salary/wage requirements
• 75% Rule to 60%.
  • Initial confusion on partial forgiveness.
  • SBA and DOT clarified.
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• Number of FTEs.
  • Old rule on bring back same number of employees:
    • Compare average FTEs over 8 weeks to
    Or
  • Safe harbor — Compare number of FTEs
    • Feb. 15, 2020 to
    • June 30, 2020.
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• Number of FTEs.
  • New Rule
    • Not required to count employees if:
      • Could not rehire or replace, or
      • Government safety restriction prevent.
  • Awaiting SBA guidance on how to show.
    • Likely need documentation
  • Safe harbor — Compare number of FTEs
    • Feb. 15, 2020 to
    • December 31, 2020.
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- Maintaining salaries/wages.
  - Feb. 15, 2020 levels compared to:
    - Average over 8 Weeks or
  - Now:
    - Average over 24 weeks or 8 weeks, or
    - By December 31, 2020,
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• Term of loan.
  • CARES Act — “maximum” of 10 years.
  • SBA ruled 2 year term.
  • Now “minimum” 5 years.
• Only for loans issued after June 5, 2020.
  
  But
  
• Can negotiate with lender for longer period.
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• Deferred Payment Time.
  • CARES Act 1 — 6 months to 1 year.
  • SBA ruled 6 months.
  • Now:
    • When loan forgiveness is determine, or
    • 10 months after covered period ends (24 weeks).
  • BUT,
    • Must apply for forgiveness within the 10 months.
    • Apply when can meet FTE and salary/wage requirement.
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• Tax deferral.
  • Employment Tax for 2020
    • Employer’s share of SS tax (6.2%)
  • Deposit deferred:
    • 50% due Dec. 31, 2021, and
    • 50% due Dec. 31, 2022.
  • IRS ruled not applicable if received PPP loan forgiven.
• Now can defer even if PPP loan forgiven.
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• SBA New Forgiveness Application.
  • Old application:
    • Now obsolete.
    • Very complicated.
  • New application expected soon.
  • Lenders can use own form.
  • If already received form, ask lender if it be updated.
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• Open issues.
  • Must get loan by June 30, 2020.
  • Employees earning $100,000 or more.
    • SBA limit based on 8 weeks.
    • Will amount be increased if based on 24 weeks?
  • None deductibility of expenses paid with PPP loan:
    • Not taxable income,
      BUT ALSO
    • No deduction.
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• Open issues.
  • Bonuses:
    • SBA ruled can be included in payroll costs.
  • Incurred and paid:
    • SBA ruled either incurred or paid.
    • Paid by next regular billing date.
  • Advance payment of covered expenses
    • Not mortgages, but
    • Rent and utilities?
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• Open issues.
  • Timing of forgiveness decision:
    • 60 days lender, and
    • 90 days SBA.
  • Opening Safely:
    • New OSHA and CDC rules sent out regularly, and
    • State requirements.