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Coronavirus Pandemic

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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Paycheck Protection Program Flexibility Act.

- 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
 - Average for Feb. 15-June 30, 2019 or Jan. 1-Feb. 29, 2020.
 - 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
 - By June 30, 2020.
 - 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.