



## WHAT YOU NEED TO KNOW ABOUT THE PPP FLEXIBILITY ACT

On June 5, 2020, President Trump signed the Paycheck Protection Program Flexibility Act into law. The new law updates the Paycheck Protection Program (“PPP”) that was part of the CARES Act. It provides borrowers with additional time to qualify for forgiveness and allows businesses more discretion in how they spend their PPP federal funds. Key changes include the following:

- The “cover period” of forgiveness is extended to 24 weeks after funding (previously 8 weeks). Borrowers who received their loan prior to the date of enactment of this bill may elect to use 8 weeks as their cover period.
- The amount of loan proceeds that must be used for payroll costs to receive loan forgiveness is reduced to 60% (previously 75%).
- The amount of loan proceeds that may be used for non-payroll related costs is increased to 40% (previously 25%).
- The maturity date for loans made on or after the date of enactment of this new legislation with remaining balances after application of forgiveness is extended to a minimum of 5 years (previously 2 years). The maturity date for loans made before the date of enactment may be extended by mutual agreement of the lender and borrower.
- The loan deferral period is automatically extended to the date a decision on forgiveness is rendered to the lender by the SBA (previously 6 months).
- The covered period of the entire PPP program is extended to December 31, 2020 (previously June 30, 2020).
- Businesses may now continue to defer payment of its share of social security taxes even after its PPP loan is forgiven. Previously, businesses could not defer taxes accrued after its PPP loan was forgiven.
- An exemption to forgiveness based on employee availability is added. The amount of loan forgiveness shall be determined without regard to a proportional reduction in the number of full-time equivalent employees if the employer is able to document:
  - ◊ An inability to rehire individuals who were employees on February 15, 2020; and
  - ◊ An inability to hire similarly qualified employees for unfilled positions on or before December 31, 2020; or
  - ◊ An inability to return to the same level of business activity as such business was operating at before February 15, 2020, due to compliance with requirements established or guidance issues by the Secretary of Health & Human Services, the Director of Centers for Disease Control and Prevention, or the Occupational Safety and Health Administration during the period from March 1, 2020 to December 31, 2020, related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19.

Oved & Oved LLP will continue to monitor and provide updates on all legislative changes during this confusing time. Our expert attorneys are available to answer any questions you may have.

## CLIENT ALERT

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