

# Electronic Alert

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## Take Note: Updates to the Terms of the Paycheck Protection Program

By Gabrielle Hansen

Good news for the businesses focused on using their Paycheck Protection Program (PPP) funds in such a way so as to obtain maximum PPP loan forgiveness. Today, President Trump signed the Paycheck Protection Program Flexibility Act into law. The Act gives companies with PPP loans more flexibility and time to maximize forgiveness.

Key changes for PPP loan recipients are as follows:

- **The deadline to apply for a PPP loan remains the same.** Businesses must apply for a PPP loan by June 30, 2020.
- **Loan recipients can now spend their funds over a 24-week period.** Previously, loan recipients had 8 weeks to spend their PPP funds. Now, loan recipients can spend these funds over a 24-week period.
- **At least 60% of the PPP loan must be spent on eligible payroll costs for the loan to be forgiven.** Previously, loan recipients who wanted to have 100% of their loan forgiven were required to spend at least 75% of the total loan amount on eligible payroll costs. This calculation was treated as a sliding scale—for example, if a business that spent 70% of their loan on payroll costs was still eligible for loan forgiveness, it would just be at an amount that was less than the total loan. Now, a loan recipient must only spend 60% of the loan on eligible payroll costs. However, the 60% threshold is now an all or nothing requirement to forgiveness. That is, employers must spend 60% or more of the loan on eligible payroll costs or none of the loan will be forgiven. The total amount of loan forgiveness may still be reduced for reductions in employee count and salary levels that are not corrected.
- **There is more time to restore workforce numbers and salary levels than was previously allowed.** Loan recipients who are looking to take advantage of the exemption for re-hires in the CARES Act now have until December 31, 2020, to restore the number of full-time equivalent employees that they employ and their wage levels. Prior to the Act, June 30, 2020, was the deadline to restore these numbers.
- **There are new exceptions for businesses who are unable to restore their employee numbers to pre-coronavirus levels.** The Act provides that the amount of loan forgiveness will be determined without regard to a proportional reduction in the number of full-time equivalent employees during the period beginning on February 15, 2020, and ending on December 31, 2020, if the employer is able to document in good faith that the reduction was due to:
  - Employees rejecting good faith offers to be rehired at the same salary and hours levels at which they were employed on February 15, 2020; or
  - The employer's inability to hire similarly qualified employees for unfilled positions; or
  - The employer's inability to restore its employee count due to restrictions related to coronavirus.

- **Loan recipients who have part or all of their loan forgiven can now take advantage of payroll tax deferral.** The Act removes the section of the CARES Act that excluded recipients of PPP loans who had part or all of their loan forgiven from being able to take advantage of the ability to delay payment for employer payroll taxes.
- **The two-year period to repay any amounts that are not forgiven has been extended for loans issued after the effective date of the Act.** Loans issued after the Act are subject to a five-year repayment term. While loans issued prior to the effective date of the Act are subject to a two-year repayment term, the Act expressly provides that there is nothing in the Act that would prohibit a loan recipient who received their loan prior to the Act from negotiating a 5-year repayment term with their lender. The interest rate remains at 1%.

We expect that these are not the last changes for employers to consider regarding the Paycheck Protection Program.

*If you have questions about qualifying for forgiveness of your PPP loan or general questions about navigating workplace issues during the COVID-19 pandemic, please contact Gabrielle Hansen at 503-276-2112 or [ghansen@barran.com](mailto:ghansen@barran.com).*