

PPP: Forgiveness and Other PPP Terms Likely to Change

There has been concern that the 8-week covered period in the forgiveness guidance is not sufficient, as many borrowers have been restricted from opening their doors or are not operating at full capacity. The 75% requirement for payroll costs has also been difficult for borrowers who may have less employees but still have their full rent to pay. This percentage limitation was not part of the original law, the CARES Act.

It appears that the House and Senate are now in broad agreement on a timeline extension for the covered period, although the details may be different (e.g. House version lists 24 weeks, Senate version lists 16 weeks; there are also differences in additional forgiveness-eligible expenses.) But both sides believe they are close. It's not clear whether the Senate would continue with its own measure or take up the House bill when it returns to session next week.

As noted previously, we are planning to hold another forgiveness webinar but will target this date to coincide with and incorporate expected changes to the program which may happen as early as next week. We are also holding off on issuing our updated forgiveness calculation template, as we do not recommend that borrowers invest significant time in calculating expected forgiveness now under current guidance when changes are expected.

The House is scheduled to vote today (Thursday 5/28) on the "Paycheck Protection Program Flexibility Act of 2020, as amended," a stand-alone bill which would relax several PPP restrictions. Note that these provisions are proposed legislation, and are subject to (and likely will) change.

PROPOSED changes in the House bill are listed here to give a flavor of the types of changes being contemplated (based on the 5/27/20 version, 6:22 pm):

- Extension of covered period for forgiveness (24 weeks after loan origination per House bill, or 12/31/20 if earlier; 16 weeks has also been discussed)
 - Borrowers that received the loan prior to enactment of these changes can elect to stay with the original 8-week covered period
- Changing the safe harbor dates from 6/30/20 to 12/31/20 (to give more time to correct reductions in FTEs or reductions in pay rates that occurred between 2/15/20-4/26/20)
- New exemptions based on employee availability – relaxes FTE forgiveness reductions if the borrower, in good faith, can document:
 - an inability to rehire individuals who were employed as of 2/15/20;
 - an inability to hire similarly qualified employees for unfilled positions on or before 12/31/20;
 - an inability to return to the same level of business activity from 2/15/20, due to compliance with requirements established by HHS, the CDC, or OSHA during the period from 3/1/20-12/31/20 related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19

- Reducing the 75% requirement for payroll costs down to 60% (an earlier version eliminated the requirement entirely, so this percentage may still move)
- Extension of loan terms beyond 2 years (5 years per House bill; 7 years has also been discussed)
- Extension of loan payment deferral period, replacing 6 months with “until the date on which the amount of forgiveness determined under section 1106 of the CARES Act is remitted to the lender.” (if no application for forgiveness is made, then deferral is for 10 months after the last day of the forgiveness covered period)
- Removes the restriction against deferring payment of employer payroll taxes when also receiving PPP forgiveness (currently, deferral is only for amounts deferred through the forgiveness date)

The House is also scheduled to vote today on another bill which would make publicly available, in an online searchable format, those borrowers who received > \$2MM from funds appropriated from the CARES Act (this includes PPP.)

About Us

GMS Surgent is a mid-sized, full service, certified public accounting and advisory firm serving business and individual clients located primarily in (but not limited to) the Greater Philadelphia area. We warmly invite you to click around our website to learn a little more about our firm, our clients and the ways in which our services could benefit you.

"Personal Attention – Valuable Results", is the principal component of our mission statement. It highlights the GMS Surgent commitment to forging strong relationships and ensuring constructive communication while earning consistently effective results for our clients. It plays an essential role throughout every aspect of our firm, guides our actions and acts as a benchmark for the services we provide.

This information is of a general nature. It may omit many details and special rules and is current only as of its published date. Please contact us for more information and how it pertains to your specific tax or financial situation.