

Checkpoint Contents

2020 COVID-19 Guidance

RIA Tax Watch

President signs bill that provides more PPP flexibility (06/08/2020)

President signs bill that provides more PPP flexibility

[H.R. 7010, the Paycheck Protection Program Flexibility Act of 2020](#)

On June 5, President Trump signed the **Paycheck Protection Program (PPP) Flexibility Act (PPPFA)** of 2020 (H.R. 7010) which provides more flexibility for participants in the PPP program, including allowing those participants to defer the payment of certain payroll taxes that the CARES Act prevented them from deferring.

Background. The PPP is a provision included in the CARES Act (P.L. 116-136, the Act) that authorizes a certain amount of forgivable loans to small businesses to pay their employees during the COVID-19 pandemic.

The CARES Act contains a provision, Act Sec. 2302, that defers the payment of 50% of certain payroll taxes until Dec. 31, 2021 and defers payment of the remaining 50% until Dec. 31, 2022. The Act provides an exception to the above rule; under that exception, these deferrals don't apply to any taxpayer which has had indebtedness forgiven under Act Sec. 1106 with respect to a loan under Small Business Act Sec. 7(a)(36), as added by Act Sec. 1102 (PPP loans), or indebtedness forgiven under Act Sec. 1109.

New law provides tax deferral relief. PPPFA eliminates the above exception and thus would allow taxpayers with these forgiven loans to defer payment of the payroll taxes.

Non-tax provisions in new law. The following are among the non-tax provisions in the new law:

- In the original CARES Act, PPP loans were forgiven if a business spent 75% of the loan money on payroll. PPPFA lowers that to 60%.
- PPPFA allows businesses 24 weeks, instead of the 8 weeks contained in the original CARES Act, to use the loan money. PPPFA also does not require businesses to wait for 24 weeks to apply for forgiveness; they can still do so after eight weeks if they prefer.
- PPPFA pushes back a June 30 deadline to rehire workers to December 31, 2020.

- The CARES Act required a business to rehire the same number of full-time employees or full-time equivalents by June 30, 2020. It provided one exception to that requirement. PPPFA provides additional exceptions if an employer is unable to rehire the required number of employees. For example, there is an exception if the employer is able to demonstrate an inability to hire similarly qualified employees on or before December 31, 2020
- For any PPP loan that is not forgiven, a business will have five years to repay the loan.

References: For CARES Act deferral of payroll taxes, see FTC 2d/FIN ¶S-5501.1; United States Tax Reporter ¶¶63,024.

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