New PPP Flexibility Act of 2020 Clarifies Key Loan Provisions for Small Businesses

The Paycheck Protection Program (PPP) was created to provide loans to support small businesses and save jobs during the COVID-19 pandemic. Ongoing interpretation and retroactive regulation by the Small Business Administration (SBA) has created some confusion for borrowers under this program, particularly as it relates to loan forgiveness.

On June 5, 2020, the Paycheck Protection Program Flexibility Act of 2020 was signed into law. It contains important program changes, outlined below. Further, on June 8, 2020, the Treasury Department released a joint statement regarding the law, expanding on its language. We expect the Treasury will issue further guidance and revisions to the Loan Forgiveness Application in the near future.

Approved Uses for PPP Loans
There are specific use guidelines for expenses PPP funds may be used to cover, including:

- Payroll costs, such as salary, wages, commissions, or tips
- Payments for vacation, parental, family, medical, or sick leave
- Payments for group health care benefits, including insurance premiums
- Payments for retirement benefits
- Employee state or local payroll taxes
- Mortgage loan interest (excluding prepayment)
- Utilities
- Rent, including some equipment rental costs

The new law clarifies the **exclusion** of any prepayment of mortgage interest.

Loan Forgiveness
The new bill contains several critical provisions that provide additional flexibility for loan forgiveness:

1. The covered period for this program has been extended from June 30, 2020, to December 31, 2020.
2. Under the new act, the borrower may use 60 percent of the loan for approved payroll costs and the remaining 40 percent for other approved expenses. This replaces the previous guidance of using up to 75 percent for approved payroll costs and 25 percent for other approved expenses, such as rent or

697 Pomfret Street, Pomfret Center, CT 06259 | TEL 860.928.2341 FAX 860.928.5271 | www.whzwealth.com

utilities. The Treasury clarified on June 8 that a borrower using less than 60 percent of the loan amount for payroll costs during the forgiveness-covered period still qualifies for partial forgiveness if at least 60 percent of the amount forgiven was used for payroll costs.

3. The new law allows the borrower to extend the covered period for forgiveness from 8 weeks to the *earlier* of 24 weeks from the origination date or December 31, 2020. A borrower who received a loan prior to this enactment can choose to continue under the original 8-week period.
4. The bill offers additional flexibility for borrowers to help them avoid a reduction of their loan forgiveness amount because of a reduction in employees during the period extending from February 15, 2020, through the end of the year. The new law specifies the following:
    a. If employers make a good-faith effort to rehire the same or similar qualified employees, their loan forgiveness amount will not be reduced.
    b. If borrowers can document they were unable to meet the rehire requirements between March 1 and December 31 because of COVID-19 sanitation and social distancing rules, their loan forgiveness amount will not be reduced.

    Borrowers will be responsible for providing documentation to support the good-faith rehire provisions.
5. The previous six-month deferment period for payment of principal, interest, and fees is extended to the date the determined loan forgiveness amount is remitted to the lender.
6. If the borrower fails to apply for loan forgiveness within 10 months of the last day of the loan forgiveness covered period, payments of principal, interest, and fees must commence on the balance of the loan.
7. Loans remaining after forgiveness will have a 1 percent fixed interest rate and a five-year maturity period. This replaces the original two-year maturity period. At this time, it appears this applies only to loans entered into on or after June 5, 2020. Borrowers with loans in place prior to this act may negotiate with their lenders to extend the maturity period.

The June 8 joint statement pronounces that June 30, 2020, remains the last date on which a PPP loan application can be approved.

Maintain Precise Documentation
Anyone receiving a PPP loan should be able to support, with clear and precise financial documentation, the need for these funds. Financial projections at both an industry and microbusiness level must support the borrower's **certification in good faith** of the need. Consider documenting monthly expense "burn rates" or creating easy-to-track expense payments that clearly demonstrate how the PPP loan funds were used during the covered period. This also extends to the documentation of the loan forgiveness application. The Treasury and SBA have promised further guidance on the loan forgiveness application and documentation process.

We Have Your Back
This has been a challenging time for many small business owners. Be sure to keep an eye out for additional announcements from the Treasury and SBA regarding PPP loans and reach out to your professional advisors and banker for guidance. Please do not hesitate to reach out to us in the event you need anything. You can call us at 860-928-2341 or email us at info@whzwealth.com. For more information regarding PPP loans and other aspects of the CARES Act, visit our website www.whzwealth.com/covid19-resources.

Authored by Principals/Managing Partners, Laurence Hale, AAMS, CRPS® and James A. Zahansky, AWMA®, along with Vice President, Associate Financial Advisor, Leisl L. Cording, CFP®. Securities and advisory services offered through Commonwealth Financial Network®, Member FINRA/SIPC, a Registered Investment Adviser. 697 Pomfret Street, Pomfret Center, CT 06259, 860.928.2341. http://www.whzwealth.com. These materials are general in nature and do not address your specific situation. For your specific investment needs, please discuss your individual circumstances with your representative. Weiss, Hale & Zahansky Strategic Wealth Advisors does not provide tax or legal advice, and nothing in the accompanying pages should be construed as specific tax or legal advice.