**PPP Flexibility Act Passes House, Likely Vote in Senate Next Week**

**May 29, 2020**

By a near-unanimous 417-1 vote, the House has passed the PPP Flexibility Act, which if enacted would, among other things,  extend the time to utilize Payroll Protection Program (PPP) loan proceeds and obtain forgiveness, allow more time to rehire employees, and allow more of the proceeds to be used for other forgivable costs besides payroll costs.  The Senate will now consider the bill and may vote on it next week.  A copy of the bill may be found here:  <https://docs.house.gov/billsthisweek/20200525/BILLS-116hr7010-SUS.pdf>

The bill would create the following adjustments to PPP requirements:

* Lower the amount that borrowers must utilize for payroll costs from 75% to 60%.
* Triple the current 8 week forgiveness period to 24 weeks.
* In some instances, the deferral period for payment of interest, principal and fees to the lender would be changed to:
  + If a borrower obtains loan forgiveness, the date on which the amount of loan forgiveness is remitted to the lender.
  + If a borrower does not apply for forgiveness within 10 months of the covered period (which would be extended to 24 weeks under the bill), the deferral period for payment of principal and interest is extended to 10 months after the end of the covered period.
* The CARES Act prohibition on borrowers utilizing payroll tax deferments is eliminated.
* The requirements for avoiding reduction in forgiveness by rehiring of employees or hiring of new employees would change. These changes in the bill are complex, and worth quoting:
  + During the period beginning on February 25 15, 2020, and ending on December 31, 2020, the  amount of loan forgiveness under this section shall be determined without regard to a proportional reduction in the number of full-time equivalent employees if an eligible recipient, in good faith
    - (A) is able to document (i) an inability to rehire individuals who were employees of the eligible recipient on February 15, 2020; and (ii) an inability to hire similarly qualified employees for unfilled positions on or before December 31, 2020; or
    - (B) is able to document an inability to return to the same level of business activity as such business was operating at before February 14 15, 2020, due to compliance with requirements established or guidance issued by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, or

the Occupational Safety and Health Administration during the period beginning on March 20 1, 2020, and ending 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.

Buchalter’s team of SBA PPP experts can help you understand these ever-changing program requirements.

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