



Advisory



Business



Employer

Bill H.R. 7010 Paycheck Protection Program Flexibility Act of 2020

June 9, 2020

On June 5, 2020 H.R. 7010 “Paycheck Protection Program Flexibility Act of 2020” was signed into law. The dispositions under H.R. 7010 amend the Small Business Act and the CARES Act, by establishing certain provisions related to the forgiveness of loans under the Paycheck Protection Program (“PPP”), providing more flexibility for small businesses and other recipients of PPP funding to qualify for forgiveness of the loans.

Following is a summary of the law’s main changes on loan forgiveness:

1. Extension of the covered period
 - recipients with outstanding loans as of the date of the enactment, are granted with the opportunity to make an election between: (a) the original 8-week period, and (b) the new term of 24 weeks after the loan’s date of origination.
 - extends the covered period for purposes of attaining loan forgiveness until December 31, 2020, a change from the previous deadline of June 30, 2020.
2. Loan forgiveness eligibility changes
 - **“75% test” reduction to 60%** - under H.R. 7010, PPP loan recipients may incur and pay at least 60% of the loan amount on covered payroll costs. While the remaining 40% is allowed for other covered non-payroll costs such as rent, utilities, and interest on secured debt.
 - **rehiring due date extension** – H.R. 7010 provides PPP loan recipients with an extension on term for rehiring employees until December 31, 2020. The originally established term was June 30, 2020.
3. Exemptions for not meeting rehiring requirements
 - during the period beginning on February 15, 2020 and ending on December 31, 2020, the amount of loan forgiveness shall be determined without regard to a proportional reduction in the number of full-time equivalent employees if one of the following two conditions is met:
 - the loan recipient, in good faith, can document: (a) an inability to rehire individuals who were employees on February 15, 2020, and (b) an inability to hire similarly qualified employees for unfilled positions on or before December 31, 2020; or
 - loan recipient is able to document, in good faith, an inability to return to the same level of business activity to a similar rate as of February 15, 2020, due to compliance with Federal Government COVID-19 response measures during the period of March 1, 2020 to December 31, 2020.



4. Loan maturity extension and payment deferral
 - loan maturity is extended to a term of five (5) years, in contrast to the original two (2) years term.
 - first payments are deferred for at least six (6) months after the SBA determines the forgiveness applicable to borrower.
 - if after ten (10) months of the covered period's last day a borrower fails to apply for loan forgiveness, according to H.R. 7010, the borrower will be responsible for payments of principal, interest, and fees on such covered loan.
5. Deferral of employer's share of Social Security for two years
 - borrowers will be eligible for the deferral of payment of the employer's share of Social Security payroll taxes, regardless of whether the borrower receives loan forgiveness. Borrowers can now defer payment of the employers share until 2021 when 50% of such taxes must be paid, with the remaining 50% due in 2022.

New rules, guidance, applications coming

The SBA, in consultation with Treasury, will “promptly” issue rules and guidance, a modified borrower application form, and a modified loan forgiveness application implementing the amendments to the PPP made in the new law, A Joint Statement issued June 8, 2020, said.

The new law provides much needed relief; “This bill will provide businesses with more time and flexibility to keep their employees on the payroll and ensure their continued operations as we safely reopen our country”, the joint statement further states.

Source:

[Congress.gov - H.R.7010 Paycheck Protection Program Flexibility Act of 2020](https://www.congress.gov/bills/116/house/7010/summary/paycheck-protection-program-flexibility-act-of-2020)

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