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Paycheck Protection Program Flexibility Act (H.R. 7010)
Legislative Assessment

The Paycheck Protection Program Flexibility Act (H.R. 7010) greatly improves the issues of the Paycheck Protection Program (PPP) given evidence of a recovery taking longer than expected due to conditions being implemented for businesses to stay safe during the reopen stage.

ISSUE	CURRENT LAW Paycheck Protection Program (PPP)	PROPOSED LEGISLATION Paycheck Protection Program Flexibility Act
Covered Period	PPP loan funds must be spent within 8 weeks of a borrower receiving the loan; June 30 is the end of any eight week covered period.	PPP loan funds can be spent within 24 weeks, as 16 weeks would be added to the PPP's eight week period, or, a borrower can select that the PPP funds be spent until Dec. 31, 2020, the end of any covered period per the Act.
75/25 Mandate on Payroll and Non-Payroll Expenses	Non-payroll expenses (rent, mortgage payments, and/or utilities) are limited to 25% of overall PPP loan expenditures if the borrower seeks maximum loan forgiveness.	Non-payroll expenses (rent, mortgage payments, and/or utilities) are limited to 40% of overall PPP loan expenditures if the borrower seeks maximum loan forgiveness.
Loan Forgiveness Reduction for Full-Time Equivalent (FTE) Employee Retention or Recruitment	Regulatory guidance sets a four-part test for borrowers seeking maximum loan forgiveness if they could not hire back all FTEs: 1) Written offer for same wage/hours, 2) Rejection of offer, 3) Employer maintains these records, 4) Employer submits report of this rejection to state unemployment office within 30 days.	Loan forgiveness will not be reduced due to a lower number of FTEs if an employer 1) is unable to rehire a previous employee, 2) shows an inability to hire "similarly qualified employees" before Dec. 31, 2020, or 3) shows an inability to return to the "same level of business activity" as prior to Feb. 15, 2020 due to new standards for sanitation, social distancing, or any other safety requirements.
Loan Terms	Two-year loan terms for PPP loans at a 1% fixed rate. While loan payments are deferred for six months, interest accrues over this period.	New PPP loans, disbursed after enactment of the Act, will have five-year loan terms. For previous PPP loans, the Act notes that nothing will "prohibit" lenders and borrowers from "mutually agreeing to modify the maturity terms of a covered loan."
Payroll Tax Deferment	PPP borrowers are not able to deduct payroll tax expenses that would otherwise be deductible if they use the PPP loans to cover the expense and the loan is forgiven.	PPP borrowers will have full access to payroll tax deferment.

860.759.9910
62 Bridge Street • New Milford, CT 06776
www.AuroraConsulting.biz