On May 28, 2020, the U.S. House of Representatives passed the Paycheck Protection Program (PPP) Flexibility Act (H.R. 7010), and on June 3, 2020, the U.S. Senate voted to pass the Act without changes. On June 5, 2020, President Trump enacted the bipartisan PPP Flexibility Act to provide more time and flexibility to borrowers seeking forgiveness for loans issued under the SBA Paycheck Protection Program. We have attached a summary of this guidance from The Groom Law firm. You may also visit LBMC's blog at https://www.lbmc.com/blog/ppp-flexibility-act/.

Q: I previously applied and was approved for a PPP loan. What is the PPP Flexibility Act and how can it help me?

A: There are several key components for current borrowers from the new PPP Flexibility Act:

1.) The maturity of the **loan can be extended up to five years** if lender and borrower agree. The interest rate is to remain at 1%.

2.) Provides flexibility to **extend the 8-week period to 24 weeks**. It may make it easier to achieve full or near-full forgiveness if current conditions are not conducive to bringing back employees.
   a. However, a borrower who received a loan before the Flexibility Act was enacted can elect to have the prior rule apply (i.e., covered period ends 8 weeks after the date the loan was originated).

3.) The **75% payroll expenditure requirement is reduced to 60%.** However, there are some items to note:
   a. In the original CARES Act, if you did not meet the 75% payroll costs, there would be a reduction in loan forgiveness. This Act provides that borrowers shall use at least 60% of the covered loan amount for payroll costs. The word "shall" indicates this is a minimum threshold and if not met, none of the loan is eligible for forgiveness.
   b. Because the loan amount is based on 10 weeks of payroll, borrowers may have a good chance of meeting the 60% requirement with the covered period extended to 24 weeks.

4.) There is an **opportunity to avoid full-time employee (FTE) reduction penalties** if headcount is restored by December 31 instead of June 30.
   a. Borrowers have a longer period of time to restore workforce.
   b. As of right now, it is unclear if the safe harbor date is as of December 31 or if the borrower can claim the safe harbor was met prior to December 31. Additional guidance is needed.

5.) There are **new exceptions for FTE reduction** provided if borrower in good faith is able to document an inability to:
   a. rehire individuals who were employees of the eligible recipient on February 15, 2020;
   b. hire similarly qualified employees for unfilled positions on or before December 31, 2020;
   c. return to the same level of business activity as before Feb. 15, 2020, due to compliance with requirements established or guidance issued …related to COVID–19.

6.) PPP borrowers can now **qualify for the deferral of employer's share of payroll taxes** available under the CARES Act.
    a. Deferral of Social Security payments (6.2%)
    b. 50% due in 2021, remainder due in 2022
7.) **Loan Payments are deferred until the SBA determines the amount of loan forgiveness** and remits to the lender.
    a. The deferral was 6 months. However, if the borrower does not apply for forgiveness within 10 months after the last day of the covered period, payments will be required at that 10th month.

Q: I am considering applying for the PPP loan by June 30, 2020. How will I benefit from the PPP Flexibility Act?

A: Even if you do not currently have a PPP loan, you will still benefit from the new Flexibility Act.

1.) Repayment periods are extended to five years for new loans. The interest rate will remain at 1%.
2.) New borrowers have a covered period of 24 weeks after the loan proceeds are received or December 31, 2020, whichever is earlier.
3.) The deadline for PPP loan applications continue to be June 30, 2020.
4.) Opportunity to avoid FTE reduction penalties if headcount is restored by December 31 instead of June 30.
5.) PPP borrowers qualify for the deferral of employer's share of payroll taxes available under the CARES Act.
6.) Loan payments are deferred until the SBA determines the amount of loan forgiveness and remits to the lender.

Additional guidance is needed in order to address the following questions. We will continue to monitor and update as new regulations are released.

Q: Can a current borrower use the June 30, 2020 FTE reduction safe harbor instead of December 31, 2020?

Q: Does anything change with the Salary and Hourly Wage Reduction calculation and Safe Harbor?

Q: Does the limit on cash compensation change to $100,000 x 24/52 from $100,000 x 8/52?

Q: What is being done to support small businesses in Tennessee?

A: On June 2, 2020, Governor Bill Lee committed $200 million from the federal Coronavirus Relief Funds to reimburse Tennessee businesses for costs incurred as a result of mandatory business closures.

The funds will be aimed at reimbursing costs incurred by the business during the Safer-At-Home order and helping businesses that suffered significant revenue drops in April 2020.

Specific categories of businesses will automatically be eligible for these business relief payment, and other categories of businesses may qualify if their April sales were reduced by at least 25% as reflected on their sales tax returns. According to state officials, it is expected that roughly 28,000 Tennessee businesses will qualify, with more than 73% of those businesses having gross sales of $500,000 or less.

To learn more, please visit our blog at https://www.lbmc.com/blog/tennessee-business-coronavirus-relief/.