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Amid the Turmoil, New Guidance and Helpful Changes for PPP Borrowers

Last week was a doozy. We hope that you're safe and supported, and able to find comfort among family, friends, colleagues, and community.

A bit of good news for PPP borrowers managed to emerge during an extraordinarily painful time. HR 7010, known formally as the "Paycheck Protection Program Flexibility Act of 2020," became law last week, providing quite a lot of substantive relief for PPP borrowers.

Specifically, HR 7010:

- Extends the end of the "covered period" for loan eligibility, originally June 30, 2020, to December 31, 2020.
- Similarly extends the period within which appropriate expenses must be made or incurred in order to qualify for loan forgiveness. Originally, that period was 8 weeks from the date of origination of the loan. HR 7010 extends it to the earlier of (a) 24 weeks from the date of origination of the loan, or (b) December 31.
- Provides that new loans made after the effective date of HR 7010 (which depends on when it is signed) will have a maturity of 5 years, rather than the 2 years that applies to loans made under the original PPP. Lenders and borrowers, who wish to do so, may negotiate to modify the maturity date of loans issued before the effective date of HR 7010.
- Authorizes loan forgiveness for employers who are unable, for specified reasons documented in good faith, to fill by December 31, 2020 positions that were occupied as of February 15, 2020. The PPP denied forgiveness based on a loss of FTEs; HR 7010 changes that rule, so that forgiveness is determined "without regard to a proportional reduction" in FTEs, under the specified conditions.
- Changes the 75/25 rule to a 60/40 rule, giving borrowers more flexibility in how to count expenses for purposes of seeking loan forgiveness. However, failure to satisfy the 60/40 rule apparently would bar forgiveness entirely, rather than trigger a proportional reduction in forgiveness (as was the case under the original PPP).
- Requires forgiveness applications to be submitted within 10 months of the last day of the "covered period."
- Extends deferral of interest payments on loans to the date on which the SBA tells the lender how much of the loan is forgiven. In light of the extended "covered period" and the 10-month window for seeking forgiveness, that could be a very long deferral.

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- Allows employers whose loans are forgiven to continue to defer payment of eligiblepayroll taxes until December 2021 or December 2022. The PPP had authorized such deferral, generally, but included anexception that kicked in if an employer's loan was forgiven. HR 7010 removes that penalty for forgiveness.

On a related side note, California nonprofits may be interested in an upcoming **Virtual Town Hall on Thursday, June 11, at 2 pm Pacific**. Sponsored by our friends at the California Association of Nonprofits, the session, which will feature several state legislators, will cover "what's going on in Sacramento and at the federal level in response to COVID-19 and how these policies impact nonprofits." Registration is required, but it's free.

Please stay healthy and safe!

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