

Does the PPP Flexibility Act Create a 60% Cliff?

By Bruce L. Blasnik, CPA, CGMA, Partner

While the pending Paycheck Protection Program Flexibility Act of 2020 does increase the amount of funds that can be spent on non-payroll costs from 25 percent to 40 percent, it appears to do so by creating a cliff. It may be that a Borrower must spend at least 60 percent of *the total loan proceeds* on payroll costs during the 24-week Covered Period in order to have any of the loan forgiven; it's 60 percent or nothing. Although, this is not *exactly* what the legislation says. If this is true, this is different than the current rules which state that "not more than 25 percent of *the loan forgiveness amount* [emphasis added] may be attributable to non-payroll costs."

The new legislation says specifically, "To receive loan forgiveness under this section, an eligible recipient shall use at least 60 percent of *the covered loan amount* [emphasis added] for payroll costs ..." What it does not say is that the 60 percent must be expended on payroll costs during the Covered Period; however, it certainly infers that this is the requirement.

With 24 weeks to spend the money, this is not likely to impact the large majority of Borrowers. But for the few Borrowers who may be impacted, this creates yet one more ambiguity. This new provision will also apply to those seeking early forgiveness by electing to use the 8-week Covered Period. If you are one of those Borrowers, be sure to consider this possible limitation on forgiveness before moving ahead.

Contact Us

As always, for further guidance and assistance, please reach out to your PKFOD engagement team members, or Bruce L. Blasnik, CPA, CGMA, Partner at LoanForgiveness@pkfod.com. We are here to help.

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