

PPP Flexibility Act — What Contractors Need to Know

June 17, 2020

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Discussion Topics

- Paycheck Protection Program Flexibility Act
- Discussion of 8 weeks versus 24 weeks
- Tax planning for forgiveness, cost selection and timing
- Areas that still require clarification





Paycheck Protection Program (PPP) Flexibility Act

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PPP Flexibility Act

- Signed into law June 5, 2020
- Extends covered period to 24 weeks, or 12/31/20
- Existing borrowers can retain 8 week period
- Changes payroll to > 60% and non payroll <40%
- FTE Exemption based on Employee Availability
- Set minimum term for new loans at 5 years
 - Existing loans can be extended based on lender approval



PPP Flexibility Act

- Extends deferral for loan repayment
 - Borrower has 10 months from end of covered period to request forgiveness (applies to all loans)
- Extends deferral for employer portion of SS tax
 - Defer taxes owed through 12/31/20
 - Previously only up to point of loan forgiveness
- Form 3508EZ - no employees, no FTE or Salary reductions ignore reductions from inability to rehire or because of business activity



PPP Flexibility Act – Open (Resolved) Items

- Treasury continues to promise guidance
- Created more flexibility with cut off dates
- FTE and salary reductions will apply to all costs?
- Will owner/employees ever get defined? **No, but...**
- No guidance on FTE Exemption based on EE availability
- Tax deductibility still a big “NO”...more to come



PPP Flexibility Act – Open (Resolved) Items

- Salary reduction & FTE test (now 12/31/20 or application date)
- Options if business does not return to normal levels
- Earliest for filing for forgiveness is probably July
- Several caps in applications and laws
 - Compensation capped at \$46,154 (\$100k / 52 x 24)
 - Owners capped at \$20,833 (\$100k / 12 x 2.5) or 2019
 - Self employed, GP's capped at \$20,833 or 2019



8 Weeks Versus 24 Weeks Decision

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8 Weeks or 24 Weeks...That is the Question

- No rush under either choice
- Currently it is either 8 weeks or 24 weeks? **Could be earlier**
- 8 weeks might avoid future changes in law
- 8 weeks if you have maximized forgiveness
- 24 weeks if you have unused proceeds
- If 24 weeks consider simplified method for FTE's





Tax Planning for Forgiveness

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Timing of Forgiveness

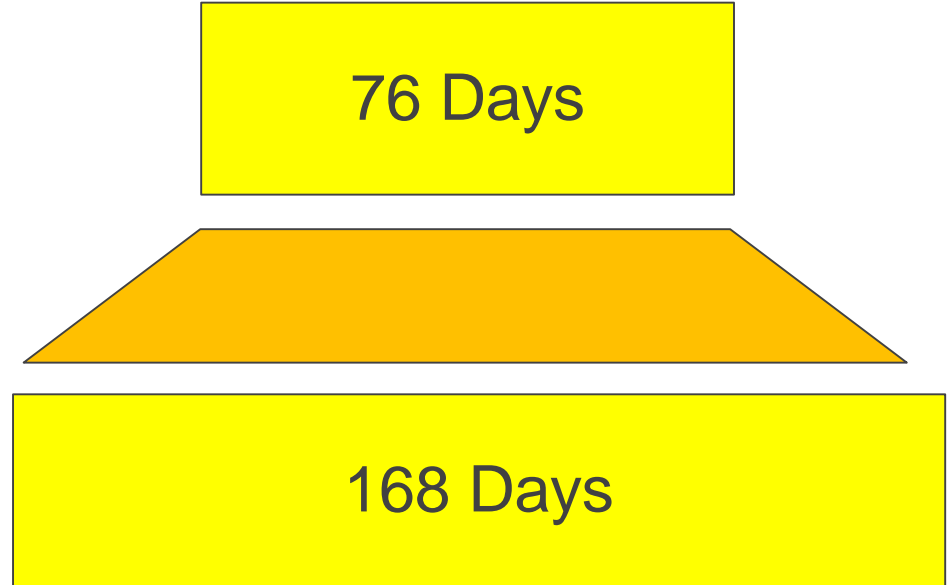
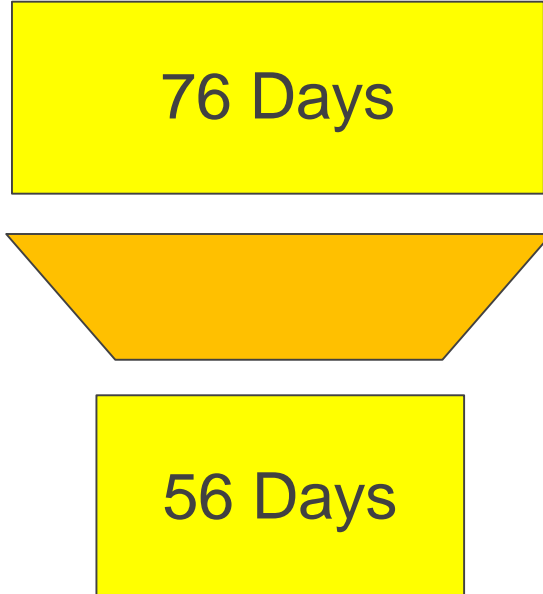
- End of covered period shifts from ~June to ~October
- Applications might be submit-able
 - Beginning as early as ~July
 - Ending as late as mid-2021
- Your financial statement year ends late 2020
- Expenditures used in forgiveness are nondeductible
 - Expenditures have differing deductibility



8 Weeks

to

24 Weeks



Cost Selection Options




Salaries

- Base
- Bonus
- Comm'ns
- Overtime
- Field/Job
- Office
- R&D
- Etc.



Fringe

- Medical Ins
- Dental Ins
- Vision Ins
- Retirement
- Etc.



Non-Wage

- Utilities
- Transport
- Rent
- Interest
- Etc.
- CAP AT 40%

Not All Costs Are Immediate Deductions

- Job costs on PCM jobs increase income
- Job costs on CCM jobs are capitalized
- Manufacturing labor may end up in ending inventory
- 263A capitalizes certain costs
- Costs capitalized to self-constructed property
- Interest expense deductions may be limited
- Tax credits may be impacted



Deductions Are Not Limited if No Forgiveness

- Forgiveness before 12/31/2020 requires limiting associated deductions
- Forgiveness events after 12/31/2020 may defer deduction implications





Areas Requiring Clarification

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Open (Resolved) Questions

- FTE's
 - Is calculation of simplified FTE's based on averages? **Still yes**
 - How will “same level of business activity” be measured?
 - Safe harbors assessed at earlier of application or 12/31/20
- Owner-Employee
 - No health insurance for owners (C Corporation still ok)
 - Comp capped at lower of \$20,833 or 2.5 months of 2019
 - Retirement plan limited to 2.5 months of 2019 contribution



Open Questions

- Costs incurred and payments made
 - What about annual costs paid outside covered period?
 - Timing up front changed to 168 days from 56 days
 - Are payroll costs other than compensation based on paid?
- Self Employment
 - No forgiveness outside of Schedule C income
 - SE Income will be capped at lower of \$20,833 or 2019 (2.5 mos.)

Open Questions

- Definitions
 - Owner/employee? %'s?, Trusts?, other?
 - Related party rent? Transportation costs? Utilities?
 - CAM, RE Taxes and other items included?
 - Is Interest on debt obligations allowed? Forgivable?

How CLA Can Help...

- General PPP loan consultation
- Consultation and a copy of our forgiveness tool
- Review your final PPP forgiveness application
- Prepare your forgiveness application
- Cash flow planning using CLA Intuition – Covid-19



Resources

Responding to COVID-19



Unforeseen disruptions — from the coronavirus (COVID-19) to natural disasters — can create many uncertainties. These resources can help you lay out a strategy to put your organization on its toes versus its heels.



Operational
Support



Regulatory and Tax
Updates



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Workforce, Human
Resource, and
Benefits Guidance



<https://www.claconnect.com/COVID19>



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