

Consultants Update

COVID-19

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Discussion Topics

- New Driver Hours of Service Rule from DOT—Correction
- Tax treatment of SBA Paycheck Protection Program Loans—Congressional Action
- House and Senate Bills to Revise PPP

Driver Hours of Service

- New final rule from DOT; will be published in Federal Register June 1
- Becomes effective 120 days after publication
- Provides additional flexibility for drivers and their employers
- Makes revisions to HOS rules in four areas

HOS Rules Changes

- Will revise the 30-minute break rule by requiring a break after 8 consecutive hours of driving rather than 8 hours on duty and allowing the break to be satisfied by a driver using on-duty, not driving status, rather than off-duty status
- Will modify the sleeper-berth exception to allow drivers to split their required 10 hours off duty into two periods: an 8/2 split and a 7/3 split—with neither period counting against the driver's 14-hour driving window

HOS Changes

- Will modify the adverse driving conditions exception by extending by 2 hours the maximum window during which driving is permitted
- Will change the short-haul exception available to commercial drivers by lengthening the drivers' maximum on-duty period from 12 to 14 hours and extending the distance limit within which the driver may operate from 100 air miles to 150 air miles; these drivers are exempt from the requirements for driver logs and Electronic Logging Devices and the 30-minute break requirement

SBA Loan Forgiveness Rules

- On May 15, Small Business Administration released its Loan Forgiveness Application and instructions
- Must complete and submit the application to your lender for loan forgiveness
- You have 8 weeks from when the loan hits your bank account to use the funds for the specified purposes in order to qualify for loan forgiveness
- After the 8-week period, you must fill out the loan forgiveness application and send it to your lender to request your loan forgiveness
- Your lender will review what you have submitted and will let you know how much of the loan will be forgiven within 60 days of receipt of your loan forgiveness application

Loan Forgiveness Form

- Includes information about the lender and borrower
- Has a worksheet on calculating the payroll amounts, federal employer taxes and benefits that were paid during the 8-week period and may be forgiven
- Also includes worksheet on forgivable expense items: rent, utilities, and mortgage interest
- Expenses may be forgiven if they do not exceed 25% of the total loan amount

Tax Treatment of PPP Loans

- CARES Act provides that forgiven PPP loans may be excluded from taxable income
- But IRS guidance issued April 30 says payroll and other expenses forgiven under PPP may not be deducted as business expenses (double dipping)
- Bipartisan support in Congress for clarifying that deductions may be taken on forgiven loan amounts—might be included in next COVID response bill (but not in current PPP revision bills)

H.R. 6886 PPP Flexibility Act

- May be voted on this week in House
- Increases time to spend loan from 8 weeks to 24 weeks
- Eliminates requirement that 75% of funds must be used for payroll expenses for amounts to be forgiven
- Increases loan maturity date from 2 years to minimum of 5 years
- Extends rehiring deadline to qualify for loan forgiveness from June 30 to Dec. 31, 2020

S. 3833

- Might be voted on this week by voice vote in Senate, or next week when they reconvene
- Increases time to spend loan from 8 weeks to 16 weeks
- Allows use of loan funds to purchase masks and other PPE, and to pay for necessary investments to reopen safely (e.g., improvements to ventilation)
- Extends the application deadline from June 30 to Dec. 31, 2020

PPP Funds Still Available

- Congress has authorized \$610 billion in PPP funds
- \$100 billion remains available for lending
- Current deadline to apply for a loan is June 30

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