

President Biden Signs American Rescue Plan Act (ARPA) of 2021

Yesterday, March 11, 2021, President Biden signed into law the \$1.9 trillion stimulus package known as the American Rescue Plan Act of 2021 (ARPA). ARPA contains extensions to unemployment, direct stimulus payments, and important provisions for businesses. The ARPA is a large and far reaching plan with tax changes that impact businesses and individuals alike. There will most certainly be additional guidance issued on many of the points covered below. We will continue keep you updated as that guidance is released.

Highlights of the Legislation

Businesses

Restaurant Recovery Plan

A new \$28 billion grant program was created to assist bars, food trucks, and restaurants. Eligible taxpayers can receive a tax-free grant of up to \$5 million per restaurant or \$10 million per restaurant group -- that is generally equal to the loss in revenue from 2019 to 2020, reduced by any PPP proceeds received in either 2020 or 2021. As with the PPP, the grant must be spent on certain eligible costs (including payroll, benefits, rent, utilities, cleaning, equipment, food, and other costs) during a covered period that runs from February 15, 2021, through the end of the year. More information on this program is forthcoming and it will operate as a Small Business Association (SBA) grant program.

Extension of the Employee Retention Credit

The ERC is extended through the end of 2021. Originally planned to expire at the end of June 2021, the credit will be computed for the second half of 2021 in the same manner as the first half: a 70% credit rate and maximum wages of \$10,000 per employee/per quarter. The taxpayer will need to establish for each of the final two quarters of 2021 that either 1) business was either fully or partially suspended by government order, or 2) receipts for the quarter dropped by more than 20% when compared to the same quarter in 2019.

Paid Sick and Family Leave Credits Extended and Enhanced

The credits for paid sick and family leave first made available by the Families First Coronavirus Response Act (FFCRA) are extended through September 30, 2021. However, the federal credits will not be allowed if the provision of these benefits discriminates in favor of highly compensated employees, full-time employees, or on the basis of tenure. The cap on family medical leave pay is increased from \$10,000 to \$12,000. In addition, the paid sick leave 10-day limitation resets for period after March 31, 2021.

Self-employed individuals may continue to claim the paid sick and family leave credits. The bill increases the number of days to be included as qualified family leave equivalent amounts from 50 to 60 for periods between April 1, 2021 and September 30, 2021. The law eliminates the exclusion for large employers and certain small employers.

Shuttered Venue Operators (SVO) Grant

The bill removes the limitation on a PPP borrower from claiming the Shuttered Venue Operators (SVO) grant. Instead, the grant amount will be reduced by any PPP proceeds received by the taxpayer after December 27, 2020. The SVO grant program enacted as part of the December stimulus bill is reportedly set to open before the end of March 2021.

Individuals

Additional Stimulus Payments

The Act provides individual stimulus payments of \$1,400 per eligible recipient. In a change from previous rounds, taxpayers will also receive payments for college-aged and adult dependents. The payments are based on 2019 tax returns, unless 2020 have been filed, and reconciled on the 2021 tax return. Payments will be phased out over adjusted gross income: from \$75,000 to \$80,000 for single taxpayers; \$150,000 to \$160,000 for those married filing jointly.

Dependent Care Credit

The amount of expenses eligible for the credit is increased from \$3,000 for one eligible child in 2021 to as much as \$8,000 in 2021. The credit will also be fully refundable. The 20% credit amount under current law is replaced by the term "phase-out percentage," which causes a reduction of the 20% credit where taxpayer AGI exceeds \$400,000.

Expanded Child Tax Credit (CTC)

Children under age 18 and dependents who are not qualifying children are now eligible dependents for the credit. The CTC is increased to \$3,000 per child (\$3,600 for children under age 6 as of the close of the year.) There are adjusted gross income limit phase-outs and phase-out calculations specifically for the tax year 2021. The IRS must establish a program to make periodic advance payments equal to one-half of eligible taxpayers' 2021 CTC's, in July 2021 through December 2021.

Tax-free Unemployment Benefits

The bill extends \$300 weekly supplemental unemployment benefits through September 6. More importantly for 2020 tax considerations, the first \$10,200 of unemployment income received during that year will now be tax free for those with adjusted gross income less than \$150,000. All COVID-19 federal stimulus and relief payments are not considered taxable income.

Excess Business Loss Limitation Extended

The ARPA extends section 461(l) excess business loss limitations for non-corporate taxpayers by one year. First enacted by the Tax Cuts and Jobs Act (TCJA), the provision that limits losses to \$250,000 (\$500,000 for those married filing jointly) is currently set to expire in 2025 but is now extended through 2026. The CARES Act previously suspended this limitation for the 2020 tax year, but it will be reinstated for 2021.

Increase for Dependent Care Assistance Programs

The ARPA enhances tax-free benefits for employees under a Dependent Care Assistance Program plan in 2021. The limit on tax-free employer-provided dependent care assistance is increased from \$5,000 to \$10,500 (50% for taxpayers filing married separately).

We will continue to keep you up to date on this legislation and implementation of these new provisions. The ARPA will certainly be the subject of additional guidance from the IRS and the Treasury Department.

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