The Business Impact of the American Rescue Plan Act

Contents

Comparing the American Rescue Plan to Previous COVID-19 Relief Bills

President Joe Biden recently signed into law a $1.9 trillion relief bill, known as the American Rescue Plan.

The chart below provides an overview of the highlights of the bill and how it compares to the two previous relief bills signed into law in 2020.

Item	CARES Act	Consolidated Appropriations Act	American Rescue Plan
Total Cost	$2.2 trillion	$900 billion	$1.9 trillion
Direct Economic Impact Payments	Up to $1,200 for individuals, based on income Up to $2,400 for married couples Up to $500 for each qualifying child	Up to $600 for individuals, based on income Up to $1,200 for married couples Up to $600 for each qualifying child	Up to $1,400 for individuals, based on income Up to $2,800 for married couples Up to an additional $1,400 for each qualifying child, including eligible adult dependents
Federal Unemployment Insurance	$600/week	$300/week	$300/week through Sept. 6
Aid for Small Businesses	Approximately $350 billion in forgivable loans through Payment Protection Program (PPP) totaling around $650 billion after additional funds issued in April 2020	$325 billion, including $284 billion in funding to replenish the PPP	Around $50 billion, including over $7 billion to expand PPP eligibility
Funding for Education	Around $30 billion	$82 billion	Around $165 billion in funding for education, including $125 billion for K-12 schools
Direct Aid to State and Local Governments	$150 billion	Not included	$350 billion to states, local governments, tribes and territories
Housing Assistance (Rental)	Established eviction protections for renters	$25 billion in aid, and extended eviction protections	$22 billion in aid for emergency rental assistance, but no extension of eviction protections past the March 31 expiration
Direct Funding for COVID-19 Testing and Tracing, Vaccine Distribution and Other Critical Health Care Needs	Not addressed, but $25 billion of relief was issued in April 2020	Around $70 billion	Around $90 billion

For more information about the American Rescue Plan, contact GTM Payroll Services today.

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American Rescue Plan Contains Employment-related Provisions

President Joe Biden signed the American Rescue Plan Act of 2021 (ARPA) into law on March 11, 2021. Along with providing financial relief for individuals, state and local governments, schools, businesses and for other purposes, the law contains the following measures of special interest to employers and their employees:

- A subsidy for COBRA premiums, funded through employer tax credits
- Extension of employer tax credits for FFCRA employee leave voluntarily provided through Sept. 30, 2021
- Expansion of employee earnings eligible for the FFCRA tax credit
- Inclusion of testing and immunization as reasons for FFCRA leave
- Extension of $300 increase in weekly unemployment benefits
- Extension of weekly unemployment benefits for workers who otherwise wouldn't qualify for these benefits
- Expansion of subsidy for ACA premiums
- Increase in DCAP contribution limits
- Extension and expansion of the employee retention tax credit

Action Steps

Employers should review the ARPA's provisions to identify any requirements and opportunities that apply to them. Employers are also advised to watch for official guidance on the implementation of the law.

Highlights of the ARPA

COBRA Subsidy
A 100% premium subsidy is provided.

FFCRA Leave
The employer tax credit is extended and voluntary FFCRA leave is expanded.

Unemployment
$300 weekly benefit increase extended.

ACA
Exchange insurance subsidies are increased.

DCAP
Dependent Care Assistance Program contribution limits are raised.

Important Date

March 10, 2021
Congress passed the American Rescue Plan Act of 2021.

March 11, 2021
President Biden signed the bill into law.

COBRA Subsidy

The Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) allows employees who would lose employer-sponsored health insurance because of job loss (or a reduction in working hours) to continue that insurance for 18 months. However, the employer can require the employee electing COBRA coverage to pay the entire cost of the premium.

The ARPA provides a 100% subsidy of COBRA premiums from April 1, 2021, through Sept. 30, 2021, for employees and their family members who lost health insurance due to the involuntary termination (or reduction in hours) of their employment. These individuals would be allowed to elect subsidized COBRA even if they had earlier declined the COBRA option, or had enrolled in COBRA and then dropped it. The subsidy would not apply to employees who voluntarily terminated their employment or who qualify for another group health plan.

The subsidy is funded by the federal government through a refundable payroll tax credit. The ARPA contains new employee notice requirements for plan administrators; the U.S. Department of Labor will issue model notices for this purpose. Employees may elect subsidized COBRA any time from April 1, 2021, through 60 days after receiving notice of the benefit.

FFCRA Leave

The Families First Coronavirus Response Act (FFCRA), passed in March 2020, provided a tax credit for employers to fund two types of paid employee leave required by the law. These leave requirements expired in December 2020. However, the tax credits were extended through March 31, 2021, for employers that chose to continue to provide FFCRA leave beyond Dec. 31, 2020.

The ARPA extends the FFCRA employer tax credit for voluntarily provided leave through Sept. 30, 2021, and adds employee time off related to COVID-19 testing and immunization as permissible reasons for taking the voluntary leave. It also increases the amount of wages eligible for the family leave credit from $10,000 to $12,000 per employee, and it provides an additional 10 days of voluntary emergency paid sick leave for employees, beginning April 1, 2021.

Unemployment

The ARPA extends three pandemic-related federal unemployment programs that were otherwise scheduled to end in March or April 2021. These include:

- Pandemic Unemployment Assistance, which provides weekly benefits to independent contractors, self-employed individuals and other workers who would typically not be eligible for unemployment benefits;
- Pandemic Emergency Unemployment Compensation, which provides weekly benefits to individuals who have exhausted their eligibility for all other unemployment benefits; and
- Federal Pandemic Unemployment Compensation, which provides an additional $300 weekly payment to individuals who are already receiving PUA, PEUC or regular unemployment benefits.

Under the ARPA, all of these benefits are now available through Sept. 6, 2021.

The ARPA also changes how unemployment benefits received in 2020 are taxed. Specifically, it exempts the first $10,200 from federal income tax for each spouse in households with under $150,000 in adjusted gross income.

ACA

The ARPA temporarily increases the dollar amount and expands eligibility for federal subsidies for health insurance coverage purchased through the Affordable Care Act (ACA) Exchanges. Currently, the ACA's premium tax credits are not available to individuals with income at or above 400% of the federal poverty level. The ARPA temporarily eliminates this income cap on these subsidies for a period of two years.

The law also:

- Limits the total amount a household would be required to pay for health coverage through the Exchanges to 8.5% of their household income;
- Increases the federal subsidy amounts available for lower-income individuals, eliminating premium costs completely for these individuals in some cases; and
- Includes additional federal funding intended to encourage states that did not previously expand their Medicaid programs to do so now.

These ACA changes are temporary, and will expire after a period of two years.

DCAP

For taxable years beginning after Dec. 31, 2020, and before Jan. 1, 2022, the ARPA increases the annual contribution limit for a dependent care assistance program (DCAP) from $5,000 to $10,500 (and from $2,500 to $5,250 for married individuals filing taxes separately).

Employers with DCAPs can retroactively amend their plans to incorporate this increase, if:

- The amendment is adopted by the last day of the plan year in which it is effective; and
- The plan operates consistently with the terms of the amendment until it is adopted.

Employee Retention Tax Credit

The ARPA extends the employee retention credit through the end of 2021 (the credit was set to expire in June 2021). This credit was originally enacted with the Coronavirus Aid, Relief and Economic Security (CARES) Act to encourage employers to retain on their payroll employees who could not report to work because of COVID-19-related reasons.

New features of this credit include:

- Some small startups that began operating after Feb. 15, 2020, will be eligible for a maximum credit of up to $50,000 per quarter even if they do not experience an eligible decline in gross receipts, or a full or partial suspension; and
- A new provision for "severely financially distressed" employers will begin in the third quarter of 2021. The provision will allow employers of any size to count all wages toward the $10,000 cap.

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American Rescue Plan: Changes to FFCRA Employee Leave

The American Rescue Plan Act (ARPA), enacted March 11, 2021, includes changes to emergency paid sick leave and paid family leave under the Families First Coronavirus Response Act (FFCRA). The ARPA extended the tax credits through Sept. 30, 2021, for employers that continue to provide FFCRA leave voluntarily (beyond the Dec. 31, 2020, expiration date) and made changes to tax credit eligibility for both types of FFCRA leave.

Voluntary Emergency Paid Sick Leave

The ARPA permits the FFCRA tax credit for a new bank of emergency paid sick leave, beginning April 1, 2021. The amount of the new leave is 80 hours per employee. The ARPA also added COVID-19 testing and vaccination as qualifying reasons for the voluntary leave, meaning tax credits may be taken for paid sick leave provided for these new reasons.

Voluntary Paid Family Leave

The ARPA expands the FFCRA family leave tax credit by allowing the credit to apply to:

- Family leave taken for FFCRA **emergency paid sick leave** reasons
- Family leave taken for reasons related to COVID-19 testing and vaccination

The ARPA also increases the family leave wages eligible for the tax credit to $12,000 (up from $10,000) per employee, and it strikes the FFCRA requirement that the first two weeks of family leave be unpaid.

Action Steps

Employers that want to provide FFCRA leave to their employers should become familiar with the ARPA changes to ensure eligibility for the tax credits provided by the law. Employers should also look for expected official guidance on implementing the ARPA.

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Highlights

FFCRA Leave Remains Voluntary

ARPA did not reinstate the FFCRA employee leave mandates.

Tax Credit Extension

Employer tax credits are extended through Sept. 30, 2021, for wages, health plan expenses and Medicare tax for FFCRA leave provided voluntarily.

FFCRA Paid Leave

The FFCRA employer tax credits apply to 80 new hours of paid sick leave per employee, 12 weeks of paid family leave, and to leave for new reasons.

Important Dates

April 1, 2021

ARPA changes to FFCRA leave take effect.

Sept. 30, 2021

Tax credits for FFCRA leave expire.

Overview

The FFCRA required employers with fewer than 500 employees to provide 80 hours of emergency paid sick leave and 12 weeks of expanded family leave (the first two weeks of which were unpaid) for specific COVID-19-related purposes. This leave mandate was in effect from April through December, 2020. The FFCRA also provided tax credits for employers to cover certain costs of the employee leave required by the law: employee wages, health plan expenses allocable to those wages, and the employer's portion of the Medicare tax related to the wages. FFCRA tax credits are taken against employment taxes and are advanceable and fully refundable. They are also available to people who are self-employed.

In December 2020, the Consolidated Appropriations Act, 2021, extended the tax credits for FFCRA leave employers provide **voluntarily** through March 31, 2021. The leave mandate itself was not extended. The ARPA further extended the employer tax credits for FFCRA leave through Sept. 30, 2021, and made changes to both types of FFCRA leave. FFCRA leave remains voluntary, at the employer's option.

For leave to be eligible for the employer tax credits under ARPA, the employer must comply with the emergency paid sick leave and expanded family leave requirements of the FFCRA, as if they continued to apply and as they are amended by the ARPA.

Emergency Paid Sick Leave

Additional Reasons for Leave

Under the ARPA, paid sick leave is eligible for the employer tax credit if it is taken by an employee for any of the qualified reasons specified for FFCRA paid sick leave while the mandate was in effect, and for the following additional reasons:

1. An employee's inability to work or telework while they are seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, COVID-19, when the employee has been exposed to COVID-19 or the employer has requested the test or diagnosis;

2. An employee's inability to work or telework while they are obtaining COVID-19 immunization; and

3. An employee's inability to work or telework while they are recovering from any injury, disability, illness, or condition related to COVID-19 immunization.

New Bank of Leave Time

The ARPA permits the tax credit for a new bank of 80 hours of FFCRA paid sick leave per full-time employee, starting April 1, 2021. For part-time employees, the amount of new leave is the average time worked over two weeks.

Paid Family Leave

Additional Reasons for Leave

The ARPA allows the family leave tax credit for leave taken for the same three new COVID-19 testing and immunization-related reasons added to emergency paid sick leave, detailed above.

In addition, under the ARPA, employers may take the **family leave** tax credit for leave that would have satisfied the FFCRA **paid sick leave** requirements. This expands the FFCRA family leave tax credit to cover expenses for employee leave taken not just for child care purposes, but also for leave taken when employees can't work because they:

- Are subject to a federal, state or local quarantine or isolation order related to COVID-19;
- Have been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- Are experiencing symptoms of COVID-19 and are seeking a medical diagnosis; or
- Are caring for an individual subject to a federal, state or local quarantine or isolation order related to COVID-19 or who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.

This ARPA change means the family leave credit can fund what was previously considered paid sick leave for up to 12 weeks, instead of the two weeks permitted for paid sick leave.

Payment for 12 Weeks of Family Leave

Under the FFCRA leave mandate, employees on family leave were not compensated for the first two weeks of family leave, although the remaining 10 weeks of family leave were paid. The ARPA allows the employer tax credit to fund wages for the full 12 weeks of FFCRA family leave, up to a cap of $12,000 (formerly $10,000) per employee.

Nondiscrimination

In providing FFCRA leave, employers may not discriminate in favor of highly compensated employees, full-time employees or on the basis of employment tenure. Discrimination of this nature will make the leave ineligible for the tax credit for the calendar quarter in which the discrimination occurred.

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COBRA Subsidy Provisions of the American Rescue Plan Act

The American Rescue Plan Act (ARPA), signed into law March 11, 2021, provides a 100% subsidy of premiums for employer-sponsored group health insurance continued under the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) and similar state continuation of coverage (mini-COBRA) programs.

ARPA subsidies cover the full cost of COBRA or mini-COBRA premiums from April 1, 2021, through Sept. 30, 2021, for employees (and their qualifying family members), if the employee lost or loses group health insurance due to an **involuntary** job loss or reduction in work hours. The subsidy applies to people who are still within their original COBRA or mini-COBRA coverage period, for the length of that coverage period, even if they declined or dropped COBRA or mini-COBRA coverage earlier.

The subsidy does **not** apply to:

- Individuals whose job loss was **voluntary** or the result of **gross misconduct**; or
- Individuals who are eligible for another group health plan or Medicare.

The subsidies are funded through a **payroll tax credit**. Employers are required to provide **new notices** about the subsidy to employees. The U.S. Department of Labor (DOL) will issue model notices for this purpose.

Action Steps

Employers should familiarize themselves with the provisions of the ARPA and watch for agency guidance on its implementation.

Highlights

Eligible Individuals

The subsidy is generally available to people who elected COBRA, become eligible for COBRA, or declined or discontinued COBRA and are still within their original COBRA coverage period.

Funding

The subsidy is funded by a refundable, advanceable credit against payroll taxes taken by employers or carriers.

Option to Switch Coverage

The ARPA allows covered individuals to switch to similarly priced health coverage, if the employer allows it.

Important Dates

April 1, 2021

ARPA 100% subsidy begins to cover COBRA premiums.

Sept. 30, 2021

ARPA subsidy provision for COBRA premiums expires.

Overview

COBRA requires group health plans to allow covered employees and their dependents to continue their group health plan coverage when it would be lost due to specific events, such as a termination of employment or reduction in working hours. Individuals are usually allowed to continue their COBRA coverage for 18 months, although some similar state mini-COBRA laws mandate a longer coverage period.

Under COBRA, group health plans may require those covered to pay 102% of the premium for their continuing health insurance, leading many eligible individuals to decline coverage. The ARPA subsidy covers the full cost of COBRA or mini-COBRA premiums from April 1 - Sept. 30, 2021, for "assistance-eligible individuals."

Covered Plans

The COBRA subsidy in the ARPA applies to group health plans subject to federal COBRA or to a state mini-COBRA program. Plans subject to federal COBRA are plans maintained by employers with 20 or more employees on more than 50% of the business days in the previous calendar year. Small-employer plans, small governmental plans and church plans are not subject to federal COBRA, but may be subject to a state mini-COBRA law and therefore be covered by the ARPA's COBRA subsidy provisions.

Health flexible spending arrangements under Section 125 cafeteria plans are not covered by the ARPA COBRA subsidy.

Eligible Individuals

Individuals are eligible for the COBRA subsidy if they:

- Are a qualified beneficiary of the group health plan; and
- Are eligible for COBRA or mini-COBRA continuation coverage because of the covered employee's **involuntary** termination (unrelated to gross misconduct) or reduction in hours of employment.

The subsidy is not available for people who voluntarily left their job. It is also unavailable for people who are eligible for Medicare or another group health plan, not including:

- A plan covering only excepted benefits;
- A qualified small employer health reimbursement arrangement; or
- A flexible spending arrangement.

Furthermore, individuals receiving a COBRA subsidy who become eligible for a group health plan or Medicare must inform the health plan for which they are receiving the subsidy of that fact, or face a penalty. The premium subsidy is not counted as gross income.

Extended Election Period

The ARPA allows individuals to elect subsidized COBRA if they:

- Become eligible for COBRA or mini-COBRA due to involuntary job termination (not caused by gross misconduct) or reduction in hours between April 1 and Sept. 30, 2021;
- Previously declined COBRA or mini-COBRA after becoming eligible due to involuntary job termination (not caused by gross misconduct) or reduction in hours, but would still be within their COBRA or mini-COBRA coverage period had they elected the coverage at that point; or
- Previously elected COBRA or mini-COBRA but discontinued the coverage before April 1, 2021.

The election period for subsidized COBRA under ARPA begins on April 1, 2021, and runs until 60 days after the date individuals receive notice from the health plan of the availability of the COBRA subsidy.

Duration of Coverage

COBRA and mini-COBRA coverage under the ARPA election extension starts with the first period of coverage beginning on or after April 1, 2021, and continues through the end of the individual's COBRA or mini-COBRA coverage period. The individual's COBRA or mini-COBRA coverage period is the period that would have applied had the individual elected the continuation coverage when first eligible following the initial qualifying event. For individuals who previously elected COBRA or mini-COBRA, discontinued it, and are now using the ARPA extended election period to obtain COBRA, the COBRA coverage period is calculated as if they had not dropped the coverage.

Switching Coverage

The ARPA contains a provision that—at the employer's option—allows individuals eligible for the COBRA subsidy and enrolled in the employer's group health plan to change to different health coverage also offered by the employer. The new coverage cannot have a higher premium than the individual's previous coverage, and it must be offered to similarly situated active employees. The option does not apply to plans that provide only excepted benefits, to qualified small employer health reimbursement arrangements or to health flexible spending arrangements.

The change must be elected within 90 days of the employee receiving notice of the option.

Notice Requirements

The ARPA imposes new COBRA notice requirements on health plans.

General Notice

Plan administrators must provide notification of COBRA benefits under ARPA. The notice must be written in clear and understandable language, and it must inform recipients of the availability of ARPA premium assistance and the option under the ARPA to enroll in different coverage (if the employer permits the option).

The notice must be provided to individuals who become eligible for COBRA or mini-COBRA during the period of April 1 - Sept. 30, 2021. In addition, it must be provided by May 31, 2021, to people who have already elected COBRA coverage, and to people subject to the ARPA election extension—that is, people eligible for the subsidy who declined or discontinued COBRA or mini-COBRA before April 1, 2021.

The notification may be included in an amendment to a plan's existing notices or be given in a separate notice, but it must contain the following information:

1. The forms necessary for establishing eligibility for premium assistance
2. The name, address and telephone number necessary to contact the plan administrator and any other person maintaining relevant information in connection with premium assistance
3. A description of the extended election period under the ARPA
4. A description of the obligation of qualified beneficiaries to notify the plan if they become eligible for another group health plan or Medicare, and the penalty for failure to do so

5. A prominently displayed description of the right to a subsidized premium and any conditions on entitlement to the subsidized premium

6. A description of the option of the right to enroll in different coverage (if the employer permits this option)

The DOL is charged with issuing a model general notice by April 10, 2021, for plans to use to meet the general notice requirement.

Notice of Expiration of Subsidy

Plans must also provide individuals eligible for the ARPA subsidy with notice of its expiration. The notice must be written in clear and understandable language, and inform recipients that:

- The premium assistance will expire soon, prominently identifying the expiration date; and
- The individual may be eligible for coverage without premium assistance through COBRA continuation or a group health plan.

Plans are not required to issue an expiration notice to individuals whose subsidy is expiring because they became eligible for other group health plan coverage or Medicare.

The notice must be provided during the 45 - 15-day period before the individual's subsidy expires. The DOL must issue model expiration notices by April 25, 2021.

Tax Credit

The ARPA COBRA subsidy is funded through a tax credit to employers whose plans are subject to COBRA or are self-insured, to the plan for multiemployer plans, and to the insurer for other plans. The credit is taken against payroll taxes. It can be advanced (according to forms and instructions to be provided by federal agencies) and is fully refundable. The credits will be provided each quarter in an amount equal to the premiums not paid by assistance-eligible individuals.

Contact Information

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