

# American Rescue Plan Act of 2021 (ARP)

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*The Information below is compiled by InfoSync. Please refer to legal counsel and/or the Bill documentation for specifics and answers to questions. Pending information is in red.*

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## COBRA Subsidy:

- 100% COBRA premium subsidy April 1 2021 through September 30, 2021 for any employee who is a COBRA qualified beneficiary (or will become one) as a direct result of an involuntary termination of employment (other than for gross misconduct) or a reduction of hours.
  - Employees who voluntarily terminate are not eligible for the COBRA premium subsidy.
- Any former employee (who was eligible) who did not elect COBRA coverage or dropped COBRA coverage prior to April 1, 2021 but would otherwise be within their 18-month COBRA coverage period between April 1, 2021 and September 30, 2021 are also eligible for subsidy.
  - For example, an employee who is 8 months past their original enrollment window could now enroll for the remaining 10 months of their total 18 months. However, only coverage active during 04/01/21 - 09/30/21 would be subsidized.
  - COBRA coverage will not extend beyond the normal Cobra coverage period based on the original qualifying event.
  - These former (eligible) employees may enroll during the period of 04/01/2021 through 60 days after the date on which required notification was provided to the individual (Sec 9501-4A)
- Subsidy period will terminate for the eligible individual, when that individual becomes eligible for other group health plan coverage or Medicare. The individual is required to notify the plan if they have become eligible under the other group health plan coverage.
  - Fees for failure to notify the plan sponsor of eligibility can be the greater of \$250 or 110 percent of the premium assistance provided
- Assistance eligible individuals who are enrolled may elect to enroll in a different plan no later than 90 days after date of notice of plan enrollment option. Requirements for this option are: employer allows it, the premium for the new plan does not exceed the original plan, the new plan is offered to similar employees, and is not an HRA, FSA, or a plan with excepted benefits (Sec 9501-1B)

- Employers are required to update COBRA notices (or include a separate notice) describing the premium subsidy and, if applicable, additional election period to all eligible individuals – failure to do so will be treated as a failure of the COBRA notice requirements.
  - Notification must be updated or additional notification sent out within 60 days of 04/01/2021.
- **Secretary of the Department of Labor, secretary of the Treasury and secretary of the Department of Health and Human Services are required to provide model notices within 30 days of enactment of Act. (Sec 9501-5D)**
  - Requirements for information to be included in any Notice are defined in Sec 9501-5B and Sec 9501-6
- Employers are also required to provide notification of any early termination of the premium subsidy prior to September 30, 2021 or the scheduled expiration of the premium subsidy.
  - **A model notice will be provided within 45 days of enactment.**
  - The notice will need to include that the individual can continue cobra coverage without premium assistance through the end of the standard Cobra coverage period.
  - Notification must be sent out between 45-15 days before the updated expiration date of the Cobra Subsidy. (Sec 9501-6C)

### Cobra Subsidy – Credit for Premium Subsidy:

- Employers will receive a credit for the COBRA premium subsidy through a payroll tax credit against the employer’s Medicare taxes quarterly. If the credit exceeds the amount of payroll taxes due, the credit will be refundable when the employer submits its quarterly federal tax return (IRS Form 941).

### Restaurants Revitalization Fund (RRF):

- \$25 billion to Small Business Administration for a new grant program for restaurants and other food and drinking establishments. Establishment must be able to demonstrate loss
- Grants would be up to \$10 million per entity and \$5 million per physical locations with a maximum of 20 locations.
- **SBA will need time before application guidelines are in place**
- Grant funds can be used to offset expenses from February 15, 2020 through December 31, 2021, to include payroll, benefits, rent, utilities, cleaning, equipment, food and other costs.
- Funding must be used by December 31, 2021.
- Funding can be used in tandem with both rounds of PPP, COVID-19 Economic Injury Disaster Loans and Employee Retention Tax Credit.
- 5 billion of this money is targeted to businesses with less than \$500,000 in revenue in 2019, applies to the first 2 months of the program
- For the first 3 months of the program the SBA will prioritize distributing grants to restaurants owned by women, veterans or are otherwise socially and economically disadvantaged.
- Grant calculations
  - Established restaurants: (2019 revenue) – (2020 revenue + PPP loans)
  - Restaurants opened in 2019: (12 x 2019 revenue / months open in 2019) – (2020 revenue + PPP loans)
  - Restaurants opened in 2020: Funding equal to eligible expenses incurred

### Employee Retention Credit:

- Extends the employee retention credit established under the CARES Act through December 31, 2021 and applies to wages paid after June 30<sup>th</sup>, 2021 and before January 1<sup>st</sup>, 2022.
- The amount of qualified wages with respect to any employee shall not exceed \$10,000 for any calendar quarter and the allowed credit per calendar quarter is an amount equal to 70% of the qualified wages.

- Qualified wages do NOT include: PPP loans (first and second draw), shuttered venues operators grants, or restaurant revitalization grants.
- Expand eligibility for credit to startups established after February 15, 2020, credit is capped at \$50,000 per calendar quarter.
- Expand eligibility for credit if revenue declined by 80% compared to the same calendar quarter of the previous year.
- Credit will be claimed against Medicare tax. (Under CARES Act and CAA, the credit was claimed against Social Security tax.)

### Actions pertaining to Families First Coronavirus Response Act (FFCRA):

- Tax credit for voluntary paid leave April 1, 2021 through September 30, 2021
- Employer mandate to provide leave expired on December 31, 2020 and has NOT been extended.
- Tax credits are available for paid sick leave and paid family leave if used by the employee for obtaining vaccination related to COVID-19
- Tax credits are available for paid sick leave and paid family leave if taken by the employee as employee is recovering from any injury, disability, illness or condition related to COVID-19 vaccination
- No tax credit is available if the employer, in determining availability of the paid leave, discriminates against highly compensated employees, full-time employees, or employees on the basis of tenure with the employer.
- Total number of days of eligible leave from 50 to 60 days, which in turn increases the total amount of wages eligible for tax credit from \$10,000 to \$12,000 - beginning April 1, 2021 an employer can voluntarily provide an additional 10 days of paid leave which will be eligible for a tax credit
- IRS now has 5 years from the tax return filing date to audit claimed tax credits not the standard 3 years.

### Paycheck Protection Program:

- \$7.25 billion in new money for the small-business loan program PPP
- Application period is not extended, application is scheduled to close on March 31, 2021

### Targeted Economic Injury Disaster Loan Advance (EIDL):

- Provide economic relief to businesses that are currently experiencing a temporary loss of revenue due to COVID-19. The SBA will administer funds to qualifying businesses to meet financial obligations and operating expenses that could have been meant had the disaster not occurred.
- Priority is given to businesses with less than 10 employees

### State Small Business Credit Initiative Act:

- \$10 billion in funding to support small businesses responding to and recovering from the economic effects of COVID-19 pandemic.
- Allocation of funds by the US Department of Treasury is required within 30 days of enactment and will be determined by focusing on each state's respective employment level decline in 2020.

### ACA:

- Act does address ACA but the implications apply to the marketplace and not to 1094C/1095C reporting.
- Extends ACA subsidies to higher-income people who do not currently qualify for 2021 and 2022 – income above 400% of the FPL premiums capped at 8.5% of their income
- Extends ACA subsidies for lower-income people who already qualify for 2021 and 2022 – income 100% to 150% of FPL eligible for full coverage of premiums

- Provides maximum ACA subsidies for individuals that receive unemployment benefits in 2021
- Prevents taxpayers who misestimated their income in 2020 from having to repay excess premium tax credits at tax time
- 3-month special enrollment period, which is estimated to end mid-May 2021

### Other Impacts:

- Stimulus payments to individuals set at \$1,400 per individual and dependents, caps out at individuals earning \$75,000 and couples earning \$150,000
- Student loan forgiveness passed between December 31, 2020 and January 1, 2026 is tax free. While this does not include student loan debt forgiveness directly, it will enable an easier path for President Biden to forgive \$10,000 in student debt through Executive Order.
- Unemployment Insurance federal jobless benefit supplement at \$300.00 per week until September 6, 2021, with the first \$10,200 in Unemployment Insurance received non-taxable for households with incomes under \$150,000
- Child Tax Credit \$3,000 for children ages 6 to 17 and \$3,600 for children under 6. Amount is gradually reduced for couples earning over \$150,000 and individuals earning over \$75,000 per year. Families eligible for the full credit would get payments of up to \$300 per child per month from July through the end of the year.
- Earned Income Tax Credit raised to \$1,502 (was \$543), lowered eligible age to 19 (was 25) and eliminated the upper age limit (was set at 65 and older for childless people).
- Dependent Care Tax Credit increased to \$8,000 for one dependent and \$16,000 for two or more and allows the credit to cover 50% of expenses.
- \$128 billion in grants towards various Education agencies, institutions and child care facilities
- \$4.5 billion for the Low-Income Home Energy Assistance Program
- \$1.4 billion funding for Older Americans Act
- \$37 million in funding for the Commodity Supplemental Food Program
- \$7.5 billion to Centers for Disease Control and Prevention to use towards tracking, administering and distributing COVID-19 vaccines
- \$48 billion additional funds for COVID-19 diagnosing, tracing, and distribution of various testing supplies and personal protective equipment
- \$30 billion for emergency rental assistance and emergency housing vouchers (people experiencing homelessness, survivors of domestic violence and victims of human trafficking).
- \$30 billion to support the transportation sector
- \$1.25 billion for the Small Business Administration's Shuttered Venue Operators Grant program
- \$24.4 billion for tax years 2020 and 2021 for ACA health insurance coverage subsidies
- \$350 billion to help states, counties, cities and tribal governments to cover increased expenditures, replenish lost revenue and mitigate economic harm from the COVID-19 pandemic

### Resources – Related Websites:

- Bill: <https://www.congress.gov/bill/117th-congress/house-bill/1319/text>
- <https://www.jdsupra.com/legalnews/initial-key-takeaways-from-the-american-4789010/>
- [https://www.restaurantdive.com/news/restaurants-win-286b-relief-fund-in-bidens-stimulus-heres-how-it-works/596555/?utm\\_source=Sailthru&utm\\_medium=email&utm\\_campaign=Issue:%202021-03-11%20Restaurant%20Dive%20%5Bissue:32956%5D&utm\\_term=Restaurant%20Dive](https://www.restaurantdive.com/news/restaurants-win-286b-relief-fund-in-bidens-stimulus-heres-how-it-works/596555/?utm_source=Sailthru&utm_medium=email&utm_campaign=Issue:%202021-03-11%20Restaurant%20Dive%20%5Bissue:32956%5D&utm_term=Restaurant%20Dive)

- <https://www.npr.org/sections/coronavirus-live-updates/2021/03/09/974841565/heres-whats-in-the-american-rescue-plan-as-it-heads-toward-final-passage>
- <https://www.fisherphillips.com/resources-alerts-house-passes-american-rescue-plan-next-stop>
- [https://www.ncsl.org/Portals/1/Documents/statefed/The-American-Rescue-Plan-Act-Provisions\\_v01.pdf](https://www.ncsl.org/Portals/1/Documents/statefed/The-American-Rescue-Plan-Act-Provisions_v01.pdf)
- <https://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/stimulus-bill-provides-cobra-subsidy-through-september.aspx>
- <https://www.healthaffairs.org/doi/10.1377/hblog20210311.725837/full/>
- <https://www.fisherphillips.com/resources-alerts-employers-bidens-american-rescue-plan>
- <https://www.jdsupra.com/legalnews/employee-retention-credit-extended-3198203/>
- <https://www.jacksonlewis.com/publication/american-rescue-plan-act-extensions-changes-select-tax-credit-compensation-deduction-provisions>
- <https://home.treasury.gov/news/featured-stories/fact-sheet-the-american-rescue-plan-will-deliver-immediate-economic-relief-to-families>
- [https://www.natlawreview.com/article/american-rescue-plan-act-extensions-changes-to-select-tax-credit-compensation?utm\\_content=8b2a36f5ac6e475a3efb288943ebc5cf&utm\\_campaign=2021-3-22TrendingNews&utm\\_source=Robly.com&utm\\_medium=email](https://www.natlawreview.com/article/american-rescue-plan-act-extensions-changes-to-select-tax-credit-compensation?utm_content=8b2a36f5ac6e475a3efb288943ebc5cf&utm_campaign=2021-3-22TrendingNews&utm_source=Robly.com&utm_medium=email)