Advanced Planning Group

EYE ON CONGRESS

MAY 2021

American Rescue Plan Act (HR 1319)

Overview of Provisions Under ARPA enacted March 11, 2021

Congress provided significant economic relief for those persons and businesses who have been impacted by the Pandemic. President Biden signed the legislation on March 11th for a $1.9 trillion stimulus to the economy. It is known as the American Rescue Plan Act of 2021 (ARPA).

The federal benefits are in addition to prior programs with enhancements in areas as noted here.

Individual and Family Benefits

Recovery Rebate Credit (RRC) under new IRC Section 6428B provides a $1400 credit per taxpayer plus $1400 per dependent child (as defined in IRC Section 152) for the 2021 tax year. It is estimated that 85% of American households will receive a direct payment. This amount is in addition to the $600 RRC contained in the Consolidated Appropriations Act (CAA) signed at the end of December 2020. There is a phaseout of the rebate eligibility with Adjusted Gross Incomes (AGI) between $75-80,000 for a single person and $150-160,000 for a married couple. Heads of Household taxpayers will have a phaseout of RRC eligibility from AGI of $112,500 to $120,000.

The IRS has announced on its website that the RRC cannot be applied to past due federal income tax debts. Adjusted Gross Income (AGI) for 2019 is used to determine eligibility where the taxpayer has not already filed a 2020 federal income tax return.

COBRA Continuation Coverage premium assistance credit for medical insurance is extended to September 30, 2021. ARPA creates a new IRC Section 6432 to allow a credit to taxpayers. Credit is allowed to offset the IRC Section 3111(b) Medicare Tax. There is a penalty for failure to notify a health plan if ineligibility for COBRA. The premium assistance is not included in the taxpayer's gross income under IRC Section 1391.

Student loans forgiveness or a discharge of the debt is not taxable income for years 2021 through 2025. IRC Section 108(f) states that discharge of any student loan is not part of gross income during this time period through January 1, 2026.

Charitable deduction for cash by a non-itemizer taxpayer of $300 per person or $600 for a married couple.

Tax Exclusions and Credits

The first $10,200 of unemployment insurance benefits received in 2020 are tax free for those earning under $150,000. Married couples could receive $20,400 if each is paid a benefit. The $300 per week supplement to federal unemployment benefits is extended until September 6, 2021. Federal unemployment benefits were initially provided under the Families First Coronavirus Response Act (FFCRA) and then the Coronavirus Aid, Relief, and Economic Security Act (CARES).

Child tax credit (IRC Section 24) is increased and refundable in 2021 if tax liability is less than the credit. Credit is $3,000 for child ages 6-17 and $3600 per child under age 6. There is a 5% phaseout of excess Adjusted Gross Income (AGI) in eligibility similar to the Recovery Rebate with ranges of $75-80,000 for a single person and $150-160,000 for a married couple and $112,500 to $120,000 for Heads of Household filers. The IRS will send advance credit estimates to eligible taxpayers of 50% of the credit from July to December 2021. These advances will be reconciled on the 2021 federal tax return.

Earned Income Tax Credit (EITC) is available for those without children has been reduced from age 24 to persons with a minimum age of 19. Students are not eligible for EITC until age 24. The upper age limit of age 65 was eliminated while increasing the maximum credit to $1502. There are also Family and Sick Leave credits under ARPA.

The Child and Dependent Care Credit is governed by IRC Section 21. This credit is available in 2021 for up to 50% of eligible expenses to a limit based on income for amounts to $4000 for a single person and $8000 for a married couple with one child. Increased credit to $16,000 for those with two or more children. The reduction in the credit begins at household gross income of $125,000. The exclusion for employer-provided dependent care assistance is increased to $10,500 for 2021 from a prior cap of $5,000.

Assistance for Small Businesses

The Paycheck Protection Program (PPP) funded an additional $7.25 billion, however this was scheduled to expire March 31st. This expiration date was extended to May 31st by Congress in a subsequent bill. The Small Business Administration (SBA) was authorized to continue to process through June 30, 2021. As of March 28th, PPP loans of over $8.7 million in total have been granted for $734 billion. 78.4% are for $50,000 or less with average loan of $59,000.

ARPA expanded eligibility to nonprofits and digital news organizations. Additionally, PPP was enhanced for restaurants, venues, and minority owned businesses. ARPA provides almost $29 billion for a grant program to assist restaurants impacted by the Pandemic. An additional $15 billion was added to the Shuttered Venue Operators program. This is allocated to museums, theater, concert, and other venues that shut down due to restrictions. These businesses can also apply for PPP loans as well as the grants.

Employee Retention Credit (ERC) is under IRC Section 3134. It has been extended to December 31, 2021 and is now allowed against the Medicare Tax. This was originally part of the Coronavirus Adi, Relief, and Economic Security Act (CARES). The ERC has been extended through December 31, 2021. Credit is permitted against the Medicare Tax.

The Small Business Administration will receive an additional allocation of $1.325 billion to administer the new programs it is responsible for under this and prior laws as a result of the Pandemic.

There is $15 billion in additional funding for the Economic Injury Disaster Loan (EIDL) program as grants.

Qualified Plan Provisions

Before this law, it was projected that over 100 multi-employer plans with over one million participants would become insolvent in less than 20 years and many within 10 years. The Pension Benefit Guaranty Corporation (PGBC was expected to become insolvent by 2026 due to the likely collapse on one major pension plan, Central States, Southeast and Southwest Areas Pension Fund (CSPF) by the year 2025. Many pension plans are in a crisis position without these changes.

Single Employer Plans are provided relief in the form Interest Rate Stabilization and Shortfall Amortizations. The interest rate relief is retroactive to 2020. The interest rate corridor is narrowed and phaseout of the 5% corridor is delayed until 2026. There is a 5% floor to the 25-year interest rate averages to allow for insulation against extreme interest rate movements. Shortfall Amortization will be effective for 2022 plan years yet with an option to elect retroactively to plan years beginning in 2019, 2020, or 2021.

Multiemployer Plans are provided cash to those most greatly distressed to allow to remain viable through 2051. There are funding improvement extensions, temporary funding relief and zone status elections. Applications for special assistance will be reviewed by the Pension Benefit Guaranty Corporation (PBGC). Multiemployer plans may elect to level experience losses over up to ten years for plan years ending after February 29, 2020. Such plans can elect to widen the corridor for valuation of assets from 80% to 130%.

ARPA defers the designation of multiemployer pension plans which are endangered, critical, or critical and declining status. This offers much needed relief for them. Plans in endangered or critical status beginning in 2020 or 2021 can opt for five more years to improve their plans, The 15-year amortization period is increased to 30 years for investment and other losses as a result of the Pandemic. Funding shortfalls can be amortized over 15 years which is an increase from the prior 7 years with all pre-existing shortfall amortization reset to zero. This eases pressures from the current low interest rate environment.

Defined Benefit funding requirements were also eased for governmental entities.

The Pension Benefit Guarantee Contribution premiums per participant will approximately double for multiemployer plans from $31 in 2021 (as indexed to date from the statutory $26) to $52 beginning in plan years after December 31, 2030 and adjusted for inflation thereafter.

CARES Act, CAA, and PPP Expansions

Educator expenses for protective equipment and other supplies to prevent the spread of COVID-19 are deductible under IRC Section 62(a)(2)(D)(ii). This applies retroactive to March 12, 2020, under regulations and IRS guidance.

Farmers have the option for a two-year NOL (net operating loss) carrybacks under CAA instead of claiming the five year carryback in the CARES Act. Farmers who previously waived the election for carryback may revoke the waiver.

Family and sick leave credits were initially part of the Families First Coronavirus Response ACT (FFCRA) and are part of IRC Sections 3131, 3132, and 3133. These credits are extended to September 30, 2021. The credits are fully refundable against payroll taxes. Credits have been extended to authorize Section 501(c) (3) governmental organizations to use them. This included provisions for the deferral of payroll taxes.

The ERC credit rate was increased from 50% to 70% of qualified wages under the CAA. The number of employees counted was increased to 500 from 100 for determining the qualified wage base. The limit on creditable wages per employee was increased from $10,000 per year to $10,000 per quarter. Eligibility was increased for businesses who had a gross receipts decline of 20% for year over year which was a large reduction from the prior 50% reduction requirement.

PPP Loan availability was enhanced for more nonprofit organizations. There are requirements that the organization does not receive more than 15% of receipts from lobbying nor more than 15% of activities involve lobbying. Expenses for lobbying cannot exceed $1 million during most recent tax year ending February 15, 2020. The organization cannot employ more than 300 employees.

Governmental Entities Relief

The State Small Business Credit Initiative provides $10 billion for state governments to help small businesses. This is to be accomplished through low interest loans, leveraging of private capital and other investments.

Economic Injury Disaster Loans (EIDL) were given an additional $15 billion to the program for small businesses in minority owned businesses and underserved areas.

ARPA provides relief for state and local governments to assist in providing for its citizens and businesses. There is language limiting the ability of state to use ARPA's funds to offset certain tax relief measures within a specified timeframe. Treasury Secretary Janet Yellen sent a response letter to 21 state attorneys general to clarify provisions.

Miscellaneous

IRC Section 162m will additionally include five highest compensated executives of an entity after 2026 in addition to the employees previously included. Previously, the covered employees were Chief Executive Officer, Chief Financial Officer, and three other highest compensated officers. Both the current and former employees who attained this category will be subject to the new requirements. This applies to those who earn over the $1 million cap on deductible compensation.

Federal minimum wage was not increased to $15 per hour as was in the original House Bill. A bridge to Canada from upstate New York over the St. Lawrence Seaway was omitted, as was a railway extension near San Francisco which were also in the original House Bill.

Full deduction for business meal expenses incurred in a restaurant through December 31, 2022 was part of the Consolidated Appropriations Act, 2021 P.L. 116-260 enacted at the end of December 2020. Qualification as a restaurant has been clarified in IRS Notice 2021-25 for IRC Section 274.

COBRA premium tax credit under IRC Section 36B for health insurance for those persons who lost their employment due to an involuntary termination or a reduction in hours. The subsidy applies to coverage during period of April 01, 2021 through September 30, 2021. Eligible individuals do not have to pay the COBRA premium.

The medical expense deduction under IRC Section 213(f) was permanently reduced to 7.5% of adjusted gross income (AGI) from 10%. Disaster Relief for specified areas includes access to retirement funds up to $100,000. The distribution amounts are included in the taxpayer's income over a three-year period under the CAA.

ARPA amended IRC Section 108(f) to make it clear that gross income does not include discharged student loan amounts that occur after December 31, 2020, and prior to January 1, 2026

CAA provides that depreciation recovery of residential rental properties is 30 years where acquired prior to January 1, 2018 and owned by a real property trade or business.

Energy credits for offshore wind equipment were enhanced under the CAA under IRC Section 48 investment tax credit where the construction is initiated through 2025.

Minimum interest rate for IRC Section 7702 will be periodically updated for life insurance products to qualify for treatment as insurance. There will be benchmark indexing of the interest rate.

IRS announced on March 17th that filing due date for individual federal income taxes for the 2020 tax year has been extended to May 17, 2021. IRA contributions may be made until the filing date.

Paycheck Protection Program application deadline was extended to May 31, 2021 in the PPP Extension Act of 2021, H.R. 1799. There was no additional funding in this Bill. Small employers were provided an opportunity to apply for a second loan under this extended time period.