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American Rescue Plan Act of 2021

In light of the ongoing COVID-19 pandemic, on March 11, 2021, President Joe Biden signed into law the American Rescue Plan of 2021 ("ARPA"). ARPA allocates $1.9 trillion dollars to economic relief efforts in response to the COVID-19 pandemic. In addition to providing supplemental funding to previous efforts, ARPA also adds a number of important economic relief components. A summary of the relevant provisions of ARPA of 2021 is included below.

Direct Stimulus Payments

For individuals with yearly adjusted gross incomes of $75,000 or less, ARPA will provide a direct payment stimulus check in the amount of $1,400, plus $1,400 for each eligible dependent. Individuals earning more than $75,000 will receive a direct payment stimulus check in a lesser amount. Individuals earning more than $80,000 will not receive a direct payment stimulus check.

For married couples with a combined total yearly income of $150,000 or below, each spouse is entitled to the $1,400 direct payment stimulus check. Therefore, eligible married couples will receive a total of $2,800. However, married couples with a combined total yearly income of more than $160,000 will not receive any stimulus.

Unemployment Insurance

ARPA also extends the duration of the three major unemployment insurance programs created by the CARES Act continued in the Consolidated Appropriations Act.

1) Pandemic Unemployment Assistance ("PUA"), which provides aid to workers who are not otherwise eligible for unemployment insurance (such as independent contractors), has been extended through September 6, 2021. The number of eligibility weeks has increased to 79 weeks.
2) Pandemic Emergency Unemployment Compensation ("PEUC"), which provides additional weeks of unemployment insurance benefits to individuals who have exhausted their state unemployment benefits, has also been extended through September 6, 2021. The number of eligibility weeks has increased to 53 weeks.
3) The Federal Pandemic Unemployment Compensation ("FPUC") program's supplemental funding of $300 per week was also extended through September 6, 2021.

ARPA also provides that benefit recipients who earn less than $150,000 per year are not required to include the first $10,200 of unemployment benefits they receive as income for the 2020 tax year.

Multiemployer Pension Plan Fix

Furthermore, ARPA creates a financial assistance program under the Pension Benefit Guaranty Corporation that will allow "critical and declining" multiemployer pension plans to apply for funding to cover benefit payments and plan expenses through 2051. Such funding is available for any plans meeting one of the following criteria:

- Plans in "critical and declining" status in any plan year from 2020 through 2022;
- Plans that have had a suspension of benefits under the Multiemployer Pension Reform Act of 2014 as of March 11, 2021;
- Plans certified by an actuary to be in "critical" status in any plan year from 2020 through 2022, have a modified funded percentage of less than 40 percent, and a ratio of less than 2 active participants to 3 inactive participants; or
- Plans that become insolvent after December 16, 2014 that have not been terminated by March 11, 2021.

The financial assistance under this program is not a loan and does not need to be repaid.

Subsidies for COBRA Group Health Premiums

ARPA provides an opportunity for eligible individuals (and their dependents) who have lost group health coverage during the COVID-19 pandemic as a result of being laid off, furloughed, or having their hours reduced to receive fully subsidized group health benefits from April 1, 2021 to September 30, 2021. Therefore, such individuals can choose to continue their group health benefits without having to pay COBRA premiums during this 6-month period (including administration fees associated with the COBRA premiums). This subsidized coverage will also be available to certain workers and their dependents who lose group health benefits between April 1, 2021 and September 30, 2021. The COBRA subsidy is not taxable to the individual.

ARPA extends the period for individuals who have previously declined or dropped COBRA continuation coverage to enroll or re-enroll. Such individuals may elect COBRA during the period beginning April 1, 2021 and ending 60 days after he or she receives notice of the right to enroll. This does not change the maximum period of COBRA continuation coverage, which runs from the date of the COBRA qualifying event.

The subsidy period may end sooner if the eligible individual becomes eligible for coverage under any other group health plan or Medicare, or if the eligible individual reaches his or her maximum period of COBRA continuation coverage.

To comply with these provisions of ARPA, employers will need to revise their COBRA notices and send notice of the subsidized coverage and the right to elect coverage to certain COBRA-eligible employees, current COBRA recipients, and their dependents. The initial notices must be issued no later than May 31, 2021.

The employers, group health plans, and insurers must fully subsidize the COBRA premium during the subsidy period. This expense will be reimbursed in dollar-for-dollar tax credit.

Subsidies for Affordable Care Act Premiums

ARPA provides premium subsidies for individuals purchasing health insurance under the Affordable Care Act exchanges through 2022. While households previously had to contribute 9.83% of their annual income to pay for health insurance premiums to be eligible for the tax credits, the maximum contribution that individuals and families must pay in premiums are now capped at 8.5% of their annual income.

Before ARPA, individuals and families making more than 400% of the federal poverty amount were ineligible for tax credits under the Affordable Care Act. ARPA now allows individuals and families to be eligible for such tax credits.

Employer Tax Credits

ARPA extends tax credits to employers that voluntarily provide emergency paid sick leave or expanded family and medical leave to employees under the Families First Coronavirus Response Act ("FFCRA"). These tax credits operate to offset an employer's costs associated with the provision of such leave to its employees. The tax credits are available from April 1, 2021 through September 30, 2021.

ARPA also provides that, in addition to the previous qualifying reasons for FFCRA emergency sick leave, credits are available for sick leave wages paid when an "employee is seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, COVID-19 and such employee has been exposed to COVID-19 or the employee's employer has requested such test or diagnosis, or the employee is obtaining immunization related to COVID-19 or recovering from any injury, disability, illness, or condition related to such immunization."

As of April 1, 2021, ARPA resets the limit on the tax credit available for emergency paid sick leave (a maximum of 80 hours in wages per full-time employee). Therefore, employers may voluntarily provide employees up to 80 hours of emergency paid sick leave in the period from April 1, 2021 through September 30, 2021, in addition to any emergency paid sick leave provided earlier and be eligible for tax credits.

The amount of wages for which an employer may claim the tax credit for paid expanded FMLA leave has also increased from $10,000 to $12,000 annually per employee. The employee retention credit created under the CARES Act has also been extended through December 31, 2021.

Child Tax Credit

ARPA expands the Child Tax Credit in several ways. The credit is fully refundable for the 2021 tax year and 17-year-olds are now eligible as qualifying children. The credit amount is increased to $3,000 per child (and $3,600 for children under age 6).

The credit phases out for taxpayers earning over $150,000 who are married filing jointly, $112,500 for heads of household, and $75,000 for all others.

Relief for Small Employers

ARPA provides additional relief to small businesses by allocating additional funds to two existing economic relief programs created under the CARES Act. ARPA provides supplemental funding of $7.25 billion to the Payment Protection Program ("PPP") and expands eligible businesses to include additional nonprofit organizations and digital news services. Additionally, ARPA provides supplemental funding of $15 billion for targeted Economic Injury Disaster Loan Advance ("EIDL") payments under the Economic Injury Disaster Loan Program. Additionally, on March 30, President Biden signed the PPP Extension Act of 2021 into law, extending the PPP an additional two months to May 31, 2020 and providing an additional 30-day period for the SBA to process applications that are still pending.

Additionally, ARPA also provides $28.6 billion to establish the "Restaurant Revitalization Fund," which will also be administered by the SBA. The following entities are eligible for grants through this fund: restaurants, bars, lounges, taprooms, food trucks, caterers, and other businesses in this industry. To be eligible, such businesses cannot be publicly traded or part of a chain with 20 or more venues with the same name. Funding received under the Restaurant Revitalization Fund may be used for payroll costs, rent and mortgage payments, utilities, maintenance costs, food and beverage costs, paid sick leave, among other expenses that are incurred from February 15, 2020 to December 31, 2021.

The maximum amount given to any eligible business is $10 million, and will be limited to $5 million per physical location. For the first 21-day period, the SBA will prioritize awarding grants for small business concerns owned and controlled by women, veterans, or socially and economically disadvantaged small business concerns. Twenty (20) percent of the entire funding is expressly reserved for small businesses with less than $500,000 in gross receipts from 2019.

Federal Contractors

ARPA also extends a program that was created under the CARES Act which reimburses federal contractors for paid leave that they provide to certain employees or subcontractors who are unable to work or telework due to the pandemic. This program is now extended through September 30, 2021.

DOL Worker Safety Activities

ARPA allocates another $200 million to the U.S. Department of Labor's ("DOL") Wage and Hour Division, Office of Workers' Compensation Programs, Office of the Solicitor, Mine Safety and Health Administration, and Occupational Safety and Health Administration ("OSHA"). This funding is to be used to "carry out COVID-19 related worker protection activities, and for the Office of Inspector General for oversight of the Secretary's activities to prevent, prepare for, and respond to COVID-19."

ARPA indicates that not less than $100 million of the funding is reserved for OSHA, and at least $5 million of that amount is to be used for enforcement activities related to COVID-19 at high risk workplaces, such as health care facilities, meat and poultry processing facilities, agricultural workplaces, and correctional facilities.

If you have any questions or need assistance with regard to this client alert or Tax Law matters in general, please contact the Tax Law Practice Group: Donald R. Seifel, Jr. at 860.548.2676 or drseifel@uks.com, Jonathan L. Canestri at 860.548.2648 or jcanestri@uks.com, or Kathleen H. Rudzik at 860.548.2698 or krudzik@uks.com.

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