CPA
Practice Advisor

Rescue Plan Act provides many other relief measures, and also some new business tax measures, that should be noted.

Mar. 12, 2021

The American Rescue Plan Act of 2021 (ARPA), enacted by President Joe Biden on Thursday, is an approximately $1.9 trillion COVID-19 relief, funding and tax bill that has received a lot of attention for the inclusion of $1,400 direct payments to individuals.

What else does it do?

- An extension of the $300 federal unemployment benefit supplement through Sept. 6,

- $15 billion of additional targeted Economic Injury Disaster Loan (EIDL) grants

leave tax credits through September;
- an extension of and increase in certain FFCRA (defined below) credits,
- and an extension and expansion of the Employee Retention Tax Credit (ERTC) through December.

The ARPA also:

- extends the 15% increase in Supplemental Nutrition Assistance Program benefits through September
- provides $7.5 billion for Centers for Disease Control and Prevention vaccination distribution,
- $5.2 billion for Biomedical Advanced Research and Development Authority vaccine procurement;
- $48.3 billion for testing, contact tracing and personal protective equipment for healthcare workers;
- $50 billion for the Federal Emergency Management Agency Disaster Relief Fund;
- $125 billion for K-12 schools; $39.6 billion for colleges and universities;
- $39 billion for child care programs; $25 billion for emergency rental assistance;
- $7.6 billion for community health centers; $7 billion to help with broadband for remote learning;
- $4.5 billion for the Low-Income Home Energy Assistance Program;
- and $3.8 billion to support state mental health and substance abuse programs.

The ARPA contains several revenue-raising provisions, including

- an outright repeal of the long-delayed Section 864(f) worldwide interest allocation rules, which otherwise would have applied beginning this year;
- an expansion of the Section 162(m) compensation deduction limitation to include an additional five of the highest-paid corporate employees, beginning in 2027;

- increased information reporting for certain third-party settlement organizations

from being carried back even if not yet carried back in filed tax returns.

Portions of the ARPA are supplemental in certain respects to the Dec. 27, 2020, Consolidated Appropriations Act, 2021 (CAA); the March 27, 2020, Coronavirus Aid, Relief, and Economic Security (CARES) Act; the March 18, 2020, Families First Coronavirus Response Act (FFCRA); and the March 6, 2020, Coronavirus Preparedness and Response Supplemental Appropriations Act. Prior alerts addressing those relief bills are available here.

I. Details of Certain Corporate Tax Provisions

A. Repeal of IRC Section 864(f) Worldwide Interest Allocation Rules IRC Section 864(f), enacted in 2004 with a delayed effective date, would have allowed taxpayers to elect to allocate and apportion interest expense on a worldwide basis. The provision has been repeatedly delayed by legislation but was finally scheduled to be effective in 2021. The ARPA permanently repeals the provision. The repeal is scored as raising $22 billion to help lower the cost of the ARPA.

B. Increase in Number of Employees Subject to IRC Section 162(m)'s Limitation on Deductions of Executive Compensation IRC Section 162(m) generally prohibits tax deductions by publicly traded corporations for so-called covered employees to the extent annual compensation of those employees exceeds $1 million. Section 162(m) generally applies to the CEO, the CFO and the three next-highest-compensated individuals. For tax years beginning in 2027, the ARPA requires corporations to also include the five next-highest-compensated individuals, so that the total number of covered individuals will be at least 10. Once an individual is subject to Section 162(m) under pre-ARPA law, the individual continues to be covered by Section 162(m) even if not among the five highest-compensated employees. With respect to the five next-highest-compensated individuals, the ARPA does not provide for continuing coverage by Section 162)(m) if they later fall outside the ARPA-expanded group. The expansion of Section 162(m) is scored as raising $6 billion to help lower the cost of

Section 461(l) from 2026 to 2027. The ARPA does not remove or change CARES Act provisions relating to Section 461(l).

B. Recovery Rebate Payments The ARPA provides for additional recovery rebates of up to $1,400 for most individual U.S. residents. The rebates begin to phase out for individuals with earnings in excess of $75,000 ($150,000 for joint filers), with rebates being unavailable to individuals with earnings in excess of $80,000 ($160,000 for joint filers). The rebate, which will be delivered via direct deposit when possible, is not taxable income; it is an advance payment of a refundable tax credit on the taxpayer's 2021 federal income tax return.

III. Additional Infrastructure Spending and Very Significant Tax Changes Are Forthcoming

With passage of the ARPA, the focus in Washington, D.C., now shifts to a second budget reconciliation bill – Biden administration tax changes, expected to be joined with infrastructure spending. The tax changes are expected to be substantial and far-reaching and to include corporate, individual and capital gains tax rate increases; international tax changes; and estate and gift tax changes.

President Biden's fiscal year 2022 budget is expected to be released in mid- to late April, at which point the House and then the Senate will craft and approve a budget resolution to serve as the vehicle for the next reconciliation process. Most expect committee action to begin in the next few months, with ultimate enactment in the fall. Only 51 votes are needed to pass budget reconciliation legislation in the Senate.

The effective dates of the newly enacted provisions generally are expected to be Jan. 1, 2022, but certain provisions may have proposed effective dates tied to committee action or the date of enactment (for example, capital gains tax rate increases may be proposed to apply to sales occurring after the date of committee action in early

October or the date of enactment of the legislation later in the fall). The effective

Accounting • Benefits • Income Tax