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## American Rescue Plan Act of 2021 (ARP Act)

President Biden signed the American Rescue Plan Act of 2021 (ARPA) into law on March 11, 2021. This was a massive bill that contains over \$1.9 trillion in Federal Stimulus. It will take some time before guidance is issued on all of the provisions. The IRS is currently working on updating Form 941 and instructions to accommodate the new credits.

IRS Fact Sheet: <https://www.irs.gov/newsroom/employer-tax-credits-for-employee-paid-leave-due-to-covid-19>

DOL FAQ on Cobra Premium Assistance: <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/cobra-premium-assistance-under-arp.pdf>

### Tax Credit Information

#### Cobra Premium Assistance (Waiting on IRS Guidance)

- The ARPA provides temporary premium assistance for COBRA continuation coverage for Assistance Eligible Individuals
  - The premium is reimbursed directly to the employer, plan administrator, or insurance company through a COBRA premium assistance credit applied against the employer Medicare tax on Form 941 (we are awaiting additional guidance from the IRS when
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the updated Form 941 is released). Employers may reduce the Federal tax deposits by the amount of the credit for instant reimbursement.

- Individuals may be eligible for premium assistance if they are eligible for and elect COBRA continuation coverage because of their own or a family member's reduction in hours or an involuntary termination from employment. This premium assistance is available for periods of coverage from April 1, 2021 through September 30, 2021.
- Employees who were offered COBRA coverage but have declined due to the expense may be eligible to enroll and receive the assistance. Consult further with your insurance provider.
- The ARPA makes the premium assistance available for "Assistance Eligible Individuals." An Assistance Eligible Individual is a COBRA qualified beneficiary who meets the following requirements during the period from April 1, 2021 through September 30, 2021:
  - Is eligible for COBRA continuation coverage by reason of a qualifying event that is a reduction in hours (such as reduced hours due to change in a business's hours of operations, a change from full-time to part-time status, taking of a temporary leave of absence, or an individual's participation in a lawful labor strike, as long as the individual remains an employee at the time that hours are reduced) or an involuntary termination of employment (not including a voluntary termination); and
  - Elects COBRA continuation coverage.

#### How to apply the COBRA credit in payroll:

There is a new memo code to record the COBRA premiums and apply the credit. Please note that utilizing this code will not generate an actual payment for COBRA.

- **ARPACOBRA** – ARPA Cobra Premiums

**Please note:** If you have paid COBRA premiums as of April 1, 2021 and would like to utilize the COBRA credit, please email us at: [payroll@hsimon.com](mailto:payroll@hsimon.com) and we will be glad to process the necessary adjustment to record the COBRA payment.

#### Emergency Paid Sick Leave Act (EPSLA) \*\*\* IRS guidance is yet to be released. Here is the available information:

- ARPA provides a new annual allotment of up to 80 hours (10 days) per employee of qualifying paid sick leave available for Q2 and Q3 2021 tax credits. Again, this does not obligate an employer to provide additional leave but allows employers to offer a new bucket of leave to employees if they so choose.
  - The tax credit an employer can receive for paid sick leave is based on an employee's regular rate of pay, up to a cap of \$511 a day (\$5,110 total), if the leave is needed for one of the new reasons related to immunization or testing or because of the employee's own symptoms, quarantine or isolation (eligibility reasons 1,2 and 3 listed
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further below). If the paid sick leave is for any other reason, the amount of tax credit an employer can receive is limited to 2/3 the employee's regular rate of pay and capped at \$200 a day for a maximum credit of \$2,000 (conditions 4, 5 and 6 listed below).

- An employee is eligible for qualified sick leave wages for a day when they cannot be at a worksite in person or telework because the employee:
  1. has limited travel ability due to a federal, state, or local quarantine or isolation order for Covid-19.
  2. has been advised by a health-care provider to quarantine due to coronavirus outbreak concerns.
  3. is experiencing Covid-19 symptoms and is in the process of determining if they contracted the virus, or, **from April 1, 2021, to September 30, 2021**, is awaiting test results after exposure or an employer-requested test, needs to obtain immunization, or needs to recover from a health condition related to immunization. This condition was expanded under the ARPA.
  4. is caring for someone subject to a governmental quarantine or isolation order or whose healthcare provider advised them to quarantine due to Covid-19.
  5. needs to care for their child because of the closure of the child's school or child-care facility, or the unavailability of a child-care provider, due to Covid-19.
  6. is experiencing a situation specified by the Department of Health and Human Services as substantially like any of the other five situations.
- Qualified sick leave wages are subject to employer Social Security taxes. Instead, employers will be allowed a credit for the employer Social Security tax like the employer Medicare tax credit under FFCRA.
- Employers are allowed credit for allocable health plan expenses and contributions for certain collectively bargained benefits
- The credits are expanded to allow 501(c)(1) governmental organizations to take them.

**Emergency Family and Medical Leave Expansion Act (EFMLEA) \*\*\* IRS guidance is yet to be released. Here is the available information:**

- Increases the aggregate cap for tax credits from \$10,000 to \$12,000 per employee for wages paid between April 1, 2021 and September 30, 2021.
  - Expands the reasons to take leave to include the qualifying reasons to take paid sick leave, including the additional reasons set forth above.
  - Eliminates the requirement that the first 10 days of expanded family and medical leave is unpaid.
  - The available tax credit per employee is still limited to 2/3 the employee's regular rate of pay up to a maximum of \$200 per day for all reasons for leave, including the new leave reasons related to immunization or testing and reasons that qualify for a \$511 per day cap when the wages are paid under the paid sick leave provisions.
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- The credits are expanded to allow 501(c)(1) governmental organizations to take them.

#### How to apply the credits in payroll:

Here are the applicable earnings code to use for the qualified sick and/or qualified family leave wages:

- **ARPASick** – ARPA Sick Leave
- **ARPADep** - ARPA Dependent Car
- **ARPAFMLE** – ARPA Family Medical Leave
- **ARPAIns** – ARPA Health Insurance Costs memo entry for anyone receiving ARPASick, ARPADep, or ARPAFMLE

**Please note:** If you have used the previously established CRA earnings codes to pay wages as of April 1, 2021 an adjustment is required to move the earnings to the respective ARPA code to ensure proper reporting on Form 941. HS will identify the affected companies and will notify you when the adjustment is processed.

#### Thank You!

As always, thank you for your business, and please do not hesitate to contact us with any questions or concerns.

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