American Rescue Plan Act of 2021 (P.L. 117-2)

Selected Tax and Economic Relief Provisions

Item	IRC §	Effective Date	New Law	Before Law Change
Business Tax Provisions				
COBRA Premium Subsidy	35, 139I, 6432	4/1/21–9/30/21 (subsidy) Tax years ending after 3/11/21 (income exclusion) Payments on or after 4/1/21 (credit)	Assistance-eligible individuals (AEIs) may receive a 100% subsidy for COBRA premiums for any period of COBRA coverage. An AEI is a COBRA qualified beneficiary (employee, former employee, covered spouse, or covered dependent) who, with respect to a period of coverage during the period beginning 4/1/21 and ending 9/30/21, is eligible for and elects COBRA coverage due to a qualifying event of involuntary termination of employment or reduction of hours. AEIs cease to be eligible once other health insurance is available to them, and must notify the employer. Subsidy amounts will not be included in the gross income of AEIs. However, AEIs are not eligible for the health coverage tax credit under IRC Sec. 35(g) for any period of coverage in which they receive a COBRA subsidy. Employers will be allowed a quarterly tax credit against the Medicare payroll tax equal to the premium amounts not paid by AEIs. If the credit amount exceeds the quarterly Medicare payroll tax, the excess will be treated as a refundable overpayment. The quarterly credit may be paid in advance according to forms and instructions to be provided by the Department of Labor.	N/A
Compensation Deduction for Publicly Held Corporation Employees	162(m)	Tax years beginning after 12/31/26	Pre-Act law is changed to provide that covered employees include the eight other highest-paid employees, rather than the three other highest-paid employees. However, the rule regarding employees who were in one of the covered employee categories in preceding years does not apply to employees who are covered employees only because of the new law.	Publicly held corporation compensation deductions are limited to $1 million per year for compensation paid to any covered employee (principal executive and financial officers, three other highest-paid employees, and anyone in one of those categories for any preceding tax year that began after 12/31/16).
Economic Injury Disaster Loans	—	3/11/21	Eligible small businesses may receive targeted economic injury disaster loan (EIDL) advances from the Small Business Administration (SBA) and exclude these receipts from income. No deduction or basis increase is denied, and no tax attribute is reduced by reason of the exclusion. Advances received by partnerships and S corporations are treated as tax-exempt income for purposes of IRC Secs. 705 and 1366. So, they will be allocated to the partners or shareholders and increase their bases in their interests.	N/A
Employer-Provided Dependent Care	129	Tax years beginning in 2021	For 2021 only, the exclusion for employer-provided dependent care assistance is increased from $5,000 to $10,500 (from $2,500 to $5,250 for MFS). A plan that adopts this change will not fail to satisfy the requirements of IRC Sec. 125 (cafeteria plans) and IRC Sec. 129 (dependent care assistance programs—DCAPs) if the plan is amended for this change retroactively as long as the amendment is adopted no later than the last day of the plan year in which the amendment is effective, and the plan is operated consistent with the terms of the amendment on the effective date of the amendment and ending on the date the amendment is adopted.	An eligible employee's gross income generally does not include amounts paid or incurred by an employer for dependent care assistance provided to the employee under a qualified DCAP. The exclusion during a tax year is not more than $5,000 ($2,500 for MFS), subject to certain limitations.
Restaurant Revitalization Grants	—	3/11/21	Eligible restaurants, food trucks, and similar businesses may receive restaurant revitalization grants from the SBA and exclude these receipts from income. No deduction or basis increase is denied, and no tax attribute is reduced by reason of the exclusion. Advances received by partnerships and S corporations are treated as tax-exempt income for purposes of IRC Secs. 705 and 1366. So, they will be allocated to the partners or shareholders and increase their bases in their interests.	N/A

American Rescue Plan Act of 2021 (P.L. 117-2)

Selected Tax and Economic Relief Provisions (Continued)

Item	IRC §	Effective Date	New Law	Before Law Change
Individual Tax Provisions				
2021 Recovery Rebates/Credits	6428B	3/11/21	An eligible individual is allowed an income tax credit for 2021 equal to the sum of: (1) $1,400 ($2,800 for MFJ) plus (2) $1,400 for each dependent of the taxpayer (as defined under IRC Sec. 152 for dependency exemption purposes—qualifying children and qualifying relatives). An *eligible individual* is any individual other than a nonresident alien, an individual who is a dependent of another taxpayer for the tax year, or an estate or trust. The credit phases out starting at $75,000 of AGI ($112,500 for HOH and $150,000 for MFJ) at a rate of $28 ($18.67 for HOH) per $100 of additional income. So, the credit is completely phased out for taxpayers with AGI of over $160,000 MFJ, $120,000 HOH, and $80,000 for all other taxpayers. Each individual who was an eligible individual for 2019 is treated as having made an income tax payment for 2019 equal to the advance refund amount for 2019, which is the amount that would have been allowed as a credit for 2019 had the credit provision been in effect for 2019. However, if a taxpayer has filed a 2020 tax return when the IRS determines the amount of the rebate, information on that 2020 return is used to determine the amount of the rebate. So, while the credit is for 2021, the rebate is considered an overpayment for 2019 (or 2020) that the IRS will rebate as soon as possible during 2021. If an individual has not filed a 2019 or 2020 income tax return, the IRS will determine the amount of the rebate using information available to it and without regard to the phaseout rules (unless the IRS has reason to know those rules would apply). A return is not treated as filed for these purposes until it has been processed by the IRS. The IRS will try to make the payments electronically if appropriate, and no advance rebate will be made or allowed after 12/31/21. Children who are (or can be) claimed as dependents by their parents are not eligible individuals, even if they have enough income so that they must file a return. It makes no difference if the parent chooses not to claim the child as a dependent, because the dependency deduction is still allowable to the parent. An individual who was not an eligible individual for 2019 or 2020 may become one for 2021 (for example, where the individual was a dependent for 2019 or 2020 but not for 2021). The IRS will not send advance rebates to these individuals because advance rebates are based on information on 2019 or 2020 returns. However, the individual will be able to claim the credit when filing a 2021 return. Otherwise eligible individuals who fail to include a valid identification number (VIN) on their return are not eligible for the credit. However, MFJ filers where one spouse has a VIN and one spouse does not are eligible for credit of $1,400, in addition to $1,400 per child with a VIN. If at least one of the MFJ spouses was a member of the U.S. Armed Forces at any time during the tax year and at least one of their VINs is included on the return, they are eligible for the full $2,800 credit, in addition to $1,400 per child with a VIN. A VIN is generally a social security number issued to an individual by the Social Security Administration on or before the due date for filing the return for the tax year. However, the adoption taxpayer identification number of a dependent who is adopted or placed for adoption is also a VIN. The amount of credit that is allowable for 2021 must be reduced (but not below zero) by the aggregate advance rebates made or allowed to the taxpayer during 2021. If an advance rebate was made or allowed for a joint return, half of the rebate is treated as having been made or allowed to each spouse who filed the joint return. Advance payments are generally not subject to administrative offset for past due federal or state debts.	The Coronavirus Aid, Relief, and Economic Security (CARES) Act provided for direct payments/rebates to certain individual taxpayers (IRC Sec. 6428). These were referred to as Economic Impact Payments (EIPs). The COVID-related Tax Relief Act of 2020 (COVIDTRA) provided for additional 2020 recovery rebates (IRC Sec. 6428A). There was no provision for recovery rebates in 2021.

American Rescue Plan Act of 2021 (P.L. 117-2)

Selected Tax and Economic Relief Provisions (Continued)

Item	IRC §	Effective Date	New Law	Before Law Change
Individual Tax Provisions (Continued)				
Child and Dependent Care Credit	21	Tax years beginning in 2021	The child and dependent care credit is refundable for taxpayers who have a principal place of abode in the U.S. (as determined under IRC Sec. 32) for more than half of the tax year. For MFJ, either spouse must have a principal place of abode in the U.S. for more than half of the tax year. The dollar limit on the amount taken into account is increased to $8,000 (from $3,000) if there is one qualifying individual with respect to the taxpayer, or $16,000 (from $6,000) if there are two or more such individuals. The applicable percentage is increased to 50%, reduced by 1 percentage point for each $2,000 (or fraction thereof) by which the taxpayer's AGI for the tax year exceeds $125,000, subject to a phase-out rule. So, for taxpayers with AGI of $125,000 or less, the maximum amount of the credit is $4,000 ($8,000 × 50%) for taxpayers with one qualifying individual and $8,000 ($16,000 × 50%) for taxpayers with two or more qualifying individuals. The applicable percentage is not reduced below the *phaseout percentage*, which is 20% reduced (but not below zero) by 1 percentage point for each $2,000 (or fraction thereof) by which the taxpayer's AGI for the tax year exceeds $400,000. So, the applicable percentage is 50% for taxpayers with AGI of $125,000 or below and decreases one percentage point for every $2,000 by which the taxpayer's AGI exceeds $125,000 until AGI reaches $185,000. The applicable percentage is 20% for taxpayers with AGI greater than $185,000 but not greater than $400,000. For taxpayers with AGI above $400,000, the applicable percentage again decreases one percentage point for every $2,000. Thus, for taxpayers with AGI greater than $440,000, the credit is phased out completely.	A taxpayer with one or more qualifying individuals (certain dependents) may qualify to receive a credit for expenses he pays (*employment-related expenses*) for care of the qualifying individual(s) so the taxpayer can be gainfully employed. The expenses taken into account in determining the credit cannot exceed $3,000 for one qualifying individual or $6,000 for more than one. The credit is 35% (*applicable percentage*) of employment-related expenses for taxpayers whose AGI is $15,000 or less. The percentage is decreased by one percentage point for each $2,000 (or fraction thereof) of additional AGI until it is reduced to 20% for AGI over $43,000. The credit is nonrefundable and was subject to the limit on nonrefundable personal credits based on the taxpayer's tax liability.
Child Tax Credit	24, 7527A	Tax years beginning after 12/31/20	For the 2021 tax year, the child tax credit (CTC) is temporarily enhanced, as follows: • The definition of *qualifying child* is expanded to include a child who has not turned 18 by the end of 2021. The $500 partial CTC for dependents who are not qualifying children cannot be claimed for 2021 for children who qualify under the expanded definition. • The CTC is increased to $3,000 per child ($3,600 for children under age six as of the close of the year). • The increased credit amounts are phased out at MAGI of over $75,000 for singles, $112,500 for HOH, and $150,000 for MFJ and QW. This phaseout is limited, so that it only applies to the temporarily increased amounts for 2021 ($1,600 per child under age six and $1,000 per child age six or older), and does not apply to the $2,000 of CTC permitted under pre-change law (to which the pre-change phaseout rules continue to apply). • The CTC is fully refundable for 2021 for a taxpayer (either spouse for MFJ) with a principal place of abode in the U.S. for more than half of the tax year, or for a taxpayer who is a bona fide resident of Puerto Rico for the tax year. So, refundability will be determined without regard to either the earned income formula or the alternative formula. The IRS must establish a program to make monthly (periodic) advance payments (generally by direct deposits) equal to 50% of eligible taxpayers' 2021 CTCs, in July 2021 through December 2021. Each advance payment is 1/12 of an *annual advance amount* for the calendar year. But, if the IRS determines it is not feasible to make monthly advance payments, it may make advance payments based on a longer interval and adjust the amount of the advance payment accordingly (IRC Sec. 7527A). The *annual advance amount* is the taxpayer's CTC for the tax year beginning in that calendar year, but calculated based on a reference year (defined as the taxpayer's previous calendar year, or if the taxpayer did not file a tax return for that year, the tax year before that year). So, to determine eligibility for advance 2021 CTC payments, the IRS will look at taxpayers' 2020 returns, or if they are not yet filed, their 2019 returns. The IRS must create an online portal to allow taxpayers to: • Elect out of the advance payments. • Update information regarding a change in the number of qualifying children or the taxpayer's marital status, a significant change in the taxpayer's income, and any other factors the IRS may provide. A taxpayer who receives advance CTC payments in excess of the CTC allowable to him for 2021 must, generally, repay the excess amounts (by increasing the tax liability reported on his 2021 return). But, for taxpayers with MAGI below certain thresholds, the excess may be reduced by a safe harbor amount, limiting the amount by which the taxpayer has to increase tax liability (allowing the taxpayer to keep a portion of the excess amount).	The CTC is $2,000 per qualifying child. A *qualifying child* is defined as an under-age-17 child, whom the taxpayer can claim as a dependent (a child related to the taxpayer who, generally, lives with the taxpayer for at least six months during the year), and who is a U.S. citizen or national, or a U.S. resident. The $2,000 CTC is phased out for taxpayers with modified adjusted gross income (MAGI) of over $400,000 MFJ, and $200,000 for all other filers. The CTC is partially refundable to the extent of 15% of the taxpayer's earned income exceeding $2,500 (the earned income formula). For taxpayers with three or more qualifying children, an alternative formula applies, if it produces a larger refundable credit. The maximum refundable CTC for 2021 is scheduled to be $1,400 per qualifying child.

American Rescue Plan Act of 2021 (P.L. 117-2) Selected Tax and Economic Relief Provisions (Continued)				
Item	***IRC §***	***Effective Date***	***New Law***	***Before Law Change***
Individual Tax Provisions (Continued)				
Earned Income Credit—Expansion for Taxpayers With No Qualifying Children	32	Tax years beginning in 2021	One of the requirements for being an eligible individual is that the individual has attained the *applicable minimum age* before the close of the tax year (rather than attained age 25). *Applicable minimum age* means, except as provided below, age 19. Also, the pre-change reference to age 65 is removed. For a *specified student* (other than a *qualified former foster youth* or a *qualified homeless youth*), the applicable minimum age is 24. For a qualified former foster youth or a qualified homeless youth, the applicable minimum age is 18. • A *specified student* is an individual who is an eligible student [as defined in IRC Sec. 25A(b)(3)] during at least five calendar months during the tax year. • A *qualified former foster youth* is an individual who: – On or after the date the individual attained age 14, was in foster care provided under the supervision or administration of an entity administering (or eligible to administer) a plan under part B or part E of title IV of the Social Security Act (without regard to whether federal assistance was provided with respect to such child under part E); and – Provides (in such manner as the IRS may provide) consent for entities that administer a plan under part B or part E of title IV of the Social Security Act to disclose to the IRS information related to the status of the individual as a qualified former foster youth. • A *qualified homeless youth* is an individual who certifies, in a manner as provided by the IRS, that he is either an unaccompanied youth who is a homeless child or youth, or is unaccompanied, at risk of homelessness, and self-supporting. Percentages and amounts are increased as follows: • The 7.65% credit percentage and phaseout percentage is increased to 15.3%. • The $4,220 earned income amount is increased to $9,820. • The $5,280 phaseout amount is increased to $11,610. These amounts are not adjusted for inflation. As soon as practicable, the Secretary of the Treasury must develop and implement procedures to use information returns under IRC Sec. 6050S (returns relating to higher education tuition and related expenses) to check the status of individuals as specified students.	An eligible individual is allowed an earned income credit (EIC) of an amount equal to the credit percentage of so much of his earned income as does not exceed the *earned income amount*. The EIC may not exceed the excess (if any) of the *credit percentage* of the earned income amount over the *phaseout percentage* of so much of AGI (or if greater, earned income) as exceeds the *phaseout amount*. The *credit percentage* and *phaseout percentage* are 7.65% for a taxpayer with no qualifying children. The *earned income amount* is $4,220 for a taxpayer with no qualifying children. The *phaseout amount* for a taxpayer (non-MFJ) with no qualifying children is $5,280. The phaseout amount for MFJ is increased by $5,000. The amounts are adjusted for inflation, with the adjusted earned income and phaseout amounts for 2021 scheduled to be $7,100 and $8,880 (non-MFJ), respectively, and the $5,000 amount for MFJ with no qualifying children, $5,940. One of the requirements for being an eligible individual is that the individual has attained age 25 but not age 65 before the close of the tax year.
Earned Income Credit—Identification Requirements	32	Tax years beginning after 12/31/20	The Act removes the rule that an individual who would have qualifying children except for the identification requirements cannot claim an EIC as an eligible individual with no qualifying children. So, if an otherwise eligible individual has qualifying children, but cannot provide proper identification, then the individual will be eligible for the EIC for individuals that have no qualifying children.	A qualifying child is not taken into account for the EIC unless the eligible individual provides that child's name, age, and taxpayer ID number. An individual who would have qualifying children except for this rule cannot claim an EIC as an eligible individual with no qualifying children.
Earned Income Credit—Investment Income Rules	32	Tax years beginning after 12/31/20	The threshold amount for disqualified income is raised to $10,000, as adjusted for inflation for tax years beginning after 2021.	A taxpayer who has disqualified income (certain types of investment income) over $2,200 as adjusted for inflation ($3,650 in 2021) cannot claim the EIC.

American Rescue Plan Act of 2021 (P.L. 117-2)

Selected Tax and Economic Relief Provisions (Continued)

Item	IRC §	Effective Date	New Law	Before Law Change
Individual Tax Provisions (Continued)				
Earned Income Credit—Rules for Separated Spouses	32	Tax years beginning after 12/31/20	The Act modifies and liberalizes the rules under which certain separated married people need not file jointly to claim the EIC. These modified rules, now found in IRC Sec. 32(d), provide that: • Except for a special rule for separated spouses (see below), marital status for EIC purposes is determined under IRC Sec. 7703(a). • For EIC purposes, an individual will not be treated as married if that individual: 1) Is married [under IRC Sec. 7703(a)]; 2) Does not file a joint return for the tax year; 3) Lives with his qualifying child [as defined in IRC Sec. 32(c)(3)] for more than half of the tax year; and 4) Either (a) during the last six months of the tax year, does not have the same principal place of abode as his spouse or (b) has a decree, instrument, or agreement (other than a decree of divorce) described in IRC Sec. 121(d)(3)(C) with regard to his spouse and is not a member of the same household with his spouse by the end of the tax year. So, a separated individual who meets the requirements in items (1) through (3) above can avoid the joint return filing requirement by either not living with the ex-spouse during the last six months of the tax year, or by having a decree, instrument, or agreement described in IRC Sec. 121(d)(3)(C) and not living with the ex-spouse by the end of the tax year.	Under pre-Act law, an individual who is married (within the meaning of IRC Sec. 7703) must file a joint return for the tax year to claim the earned income credit (EIC). However, the pre-Act regulations provide that the joint return filing requirement does not apply to an individual (1) who is married under IRC Sec. 7703(a); (2) who files separately; (3) who maintains as his home a household that is, for more than half of the tax year, the principal place of abode of a child for whom the individual is entitled to a dependency deduction; (4) who furnished over half of the cost of maintaining that household; and (5) whose spouse was not a member of that household during the last six months of the tax year.
Earned Income Credit—Using 2019 Earned Income for 2021	32	First tax year beginning in 2021	In determining the EIC for 2021, taxpayers may elect to substitute their earned income for 2019 if that 2019 amount is greater than the taxpayer's earned income for 2021. For joint returns, the taxpayer's earned income for 2019 is the sum of each spouse's earned income for 2019.	The EIC equals a percentage of the taxpayer's earned income (wages, salaries, tips, and other employee compensation, if includible in gross income; self-employment income, computed without the deduction for one-half of SE tax).
Premium Tax Credit—Increased Amount	36B	Tax years beginning in 2021 and 2022	The premium tax credit (PTC) applicable percentages are modified for tax years beginning in 2021 and 2022, resulting in the new table below. Because the taxpayer's required share is less under the new table, the PTC will be greater. Under pre-Act law, a taxpayer might have had to spend as much as 9.83% of household income on health insurance premiums (reduced to 8.5% for 2021 and 2022). Also, the PTC is available to taxpayers with household incomes that exceed 400% of the federal poverty line (FPL).	A refundable PTC is available for certain individuals and families with household income from 100% to 400% of the FPL. The PTC is limited to the excess of certain premiums over the taxpayer's required share (household income multiplied by an applicable percentage based on the taxpayer's income level relative to the FPL for the year). Individuals with household income above 400% of the FPL are not eligible for the PTC.

Household Income Relative to FPL	Initial Percentage	Final Percentage
Up to 150%	0.0%	0.0%
150% up to 200%	0.0%	2.0%
200% up to 250%	2.0%	4.0%
250% up to 300%	4.0%	6.0%
300% up to 400%	6.0%	8.5%
400% and higher	8.5%	8.5%

Premium Tax Credit—Excess Advance Payments	36B	Tax years beginning in 2020	Under the Act, no additional income tax is imposed for tax years beginning in 2020 where the advance credit payments exceed the taxpayer's PTC.	Individuals can choose to have some or all of their estimated PTC paid in advance directly to their insurance company. If the advance payments exceed the PTC, the difference is taxable (up to certain limits).
Premium Tax Credit—Increase for Unemployment Compensation Recipients	35B	2021	The Act provides special rules for taxpayers who have received, or been approved to receive, unemployment compensation for any week beginning during 2021. For the tax year in which that week begins, the taxpayer is treated as an applicable taxpayer and any household income of the taxpayer in excess of 133% of the FPL for a family of the size involved is not taken into account. So, taxpayers whose household income for 2021 exceeds 133% of the FPL will receive a PTC calculated as if the income was 133% of the FPL, increasing the PTC.	Applicable taxpayers enrolling in a qualified health plan through an Exchange may be able to claim the PTC.

American Rescue Plan Act of 2021 (P.L. 117-2)

Selected Tax and Economic Relief Provisions (Continued)

Item	IRC §	Effective Date	New Law	Before Law Change
Individual Tax Provisions (Continued)				
Student Loan Forgiveness Income	108	2021–2026	The Act excludes from gross income certain discharges (full or partial) of the following types of student loans after 12/31/20 and before 1/1/26: 1) Loans provided expressly for post-secondary educational expenses if the loan was made, insured, or guaranteed by a federal, state, or local governmental entity or an eligible educational institution. 2) Private education loans. 3) Any loan made by any educational institution qualifying as a 50% charity (for purposes of the income tax charitable deduction) if the loan is made under an agreement with any governmental entity (described in item 1) or any private education lender that provided the loan to the educational organization, or under a program of the educational institution that is designed to encourage its students to serve in occupations with unmet needs or in areas with unmet needs and under which the services provided by the students (or former students) are for or under the direction of a governmental unit or a tax-exempt charitable organization. 4) Any loan made by an educational organization qualifying as a 50% charity or by a tax-exempt organization to refinance a loan to an individual to assist the individual in attending any educational organization (but only if the refinancing loan is under a program of the refinancing organization that is designed as described in item 3). The discharge of a loan made by either an educational institution or a private education lender is not excluded under the above rules if the discharge is on account of services performed for either the organization or for the private education lender.	Exceptions to the general rule requiring the inclusion of COD income from the discharge of student loans are provided for discharges (1) in exchange for a provision requiring certain work for a certain period by certain professionals (such as a doctor in a public hospital in a rural area), (2) on account of the death or total and permanent disability of a student, and (3) for certain taxpayers who had loans discharged under the Department of Education's Closed School process or the Defense to Repayment discharge process.
Unemployment Compensation	85	Tax years beginning in 2020	If a taxpayer's modified adjusted gross income (MAGI) is less than $150,000, gross income does not include so much of the unemployment compensation received by the taxpayer (or, for MFJ, received by each spouse) as does not exceed $10,200. MAGI is determined after application of IRC Secs. 86 (partial inclusion of social security and tier 1 railroad retirement benefits in gross income), 135 (exclusion of income from U.S. savings bonds used to pay higher education tuition and fees), 137 (exclusion of amount received under an adoption assistance program), 219 (deduction for qualified retirement contributions), 221 (student loan interest deduction), 222 (deduction for qualified tuition and related expenses), and 469 (limitation on passive activity losses and credits), and without regard to the inclusion of unemployment compensation in gross income.	Income includes unemployment compensation, which is any amount received under a law of the U.S. or of a state, which is "in the nature of unemployment compensation." Unemployment compensation programs are those designed to provide cash benefits on a regular basis to normally employed workers during limited periods of unemployment.
Payroll and Benefits Provisions				
Employee Retention Credit Extended	3134	For qualified wages paid 7/1/21–12/31/21	The Act codifies the ERC by creating new IRC Sec. 3134. And it extends the ERC through 12/31/21. The ERC rate continues to be 70%, and the qualified wages limit for any calendar quarter remains at $10,000. So, an employer can potentially have up to $40,000 in qualified wages per employee during 2021. The ERC in any calendar quarter may not exceed the applicable employment taxes on the wages paid with respect to the employment of all the employees of the eligible employer. The credit is allowed to be claimed against Medicare (1.45% portion) taxes only. Under the CARES Act and CAA, 2021, the credit could be taken against social security (6.2% portion) taxes. Since there will be a smaller amount of taxes to claim the credit against, it could take longer to fully claim the credit for the third and fourth quarters of 2021. Instead of just reducing their payroll tax deposits immediately, more employers may need to file Form 7200 (Advance Payment of Employer Credits Due to COVID-19) to claim the credit. The Act adds an overall limitation on the credit of $50,000 per calendar quarter for an eligible employer that is a recovery startup business [see IRC Sec. 3134(d)(5) for definition]. Also added is a special rule to define qualified wages for employers not in existence in 2019. The Act also provides that qualified wages paid by an employer taken into account as payroll costs under second draw Paycheck Protection Program (PPP) loans, shuttered venues assistance grants, and restaurant revitalization grants are not eligible for the ERC. However, payroll costs paid during the covered period do not fail to be treated as ERC-qualified wages to the extent that a covered loan is not forgiven. This means that PPP recipients are eligible for the ERC if the loan did not pay the wages in question.	The employee retention credit (ERC) was enacted by the CARES Act on 3/27/20. It was a refundable payroll tax credit equal to 50% of the qualified wages, up to $10,000, an eligible employer paid to employees after 3/12/20 and before 1/1/21. The CAA, 2021 extended the ERC through 6/30/21, increased the credit rate from 50% to 70% of qualified wages, increased the limit on per-employee creditable wages from $10,000 for the year to $10,000 per quarter, and expanded eligibility.

American Rescue Plan Act of 2021 (P.L. 117-2)

Selected Tax and Economic Relief Provisions (Continued)

Item	IRC §	Effective Date	New Law	Before Law Change
Payroll and Benefits Provisions (Continued)				
Paycheck Protection Program (PPP) Modified	—	See *New Law* column	The Act allocates additional PPP funding, but it does not extend the application period beyond 3/31/21. Pending legislation, the PPP Extension Act of 2021, would extend the coverage period of the PPP from 3/31/21 to 6/30/21. Along with this extension, new loan applications submitted before 6/1/21 would be eligible for consideration. From 6/1/21 through 6/30/21, the SBA would not accept new lender applications, and would only process applications submitted before 6/1/21. The Act adds *additional covered nonprofit entity* as an eligible nonprofit for first draw and second draw PPP loans. This is an organization listed in IRC Sec. 501(c), other than those listed in IRC Sec. 501(c)(3), 501(c)(4), 501(c)(6), or 501(c)(19). An additional covered nonprofit entity is eligible for a PPP loan if: • It employs no more than 300 employees; • It does not receive more than 15% of its receipts from lobbying activities; • Lobbying activities do not comprise more than 15% of the organization's total activities; and • The cost of lobbying activities does not exceed $1,000,000 during the most recent tax year that ended prior to 2/15/20. The Act also makes eligible Section 501(c)(3) nonprofit and veterans organizations that employ no more than 500 employees per physical location and Section 501(c)(6) organizations (business leagues, chambers of commerce, real estate boards, boards of trade, and professional football leagues) and domestic marketing organizations with no more than 300 employees per physical location. Also, certain internet-only news publishers and internet-only periodical publishers are added as businesses eligible for first and second draw PPP loans. The Act further provides that amounts used from first and second draw PPP loans for premiums used to determine the credit for COBRA premium assistance, as provided under IRC Sec. 6432, are eligible for loan forgiveness.	The CARES Act established the PPP, which permitted the SBA to provide loans to qualified businesses impacted by the coronavirus pandemic. The federally guaranteed loans must be used for payroll and certain non-payroll costs. CAA, 2021 extended the PPP until 3/31/21. CAA, 2021 also expanded access to first draw PPP loans to other entities, included additional eligible expenses, clarified terms, provided that taxpayers whose PPP loans are forgiven are allowed deductions for otherwise deductible expenses paid with loan proceeds, and authorized second draw PPP loans for smaller borrowers.
Sick and Family Leave Credits Extended and Improved	3131, 3132, 3133	Generally for amounts paid with respect to calendar quarters beginning after 3/31/21	The Act codifies these FFCRA credits by creating new IRC Secs. 3131 (credit for paid sick leave), 3132 (payroll credit for paid family leave), and 3133 (special rule related to tax on employers). And it extends the sick and family leave credits through 9/30/21. IRC Sec. 3133 provides that paid sick and family leave credits may each be increased by the employer's share of social security tax (6.2%) and Medicare tax (1.45%) on qualified leave wages. The IRS may waive Section 6656 penalties for failure to deposit applicable employment taxes (employer's share of Medicare or Tier 1 RRTA tax) if the failure to deposit is due to an anticipated credit. The amount of wages for which an employer may claim the paid family leave credit in a year is increased from $10,000 to $12,000 per employee. Also, the paid family leave credit is expanded to allow employers to claim the credit for leave provided for the reasons included under the previous employer mandate for paid sick time. And the number of days for which self-employed individuals can claim the paid family leave credit is increased from 50 to 60. The paid sick and family leave credits may be claimed by employers who provide paid time off for employees to obtain the COVID-19 vaccination or recover from an illness related to the immunization. Also, the credits are increased by the employer's (1) qualified health plan expenses [IRC Secs. 3131(d) and 3132(d)] and (2) collectively bargained (a) contributions to a defined benefit pension plan and (b) apprenticeship program contributions [IRC Secs. 3131(e) and 3132(e)]. The 10-day limitation on the maximum number of days for which an employer can claim the paid sick leave credit with respect to wages paid to an employee is reset, following the current 10-day limitation that runs from the start of the credits in 2020 through 3/31/21. For self-employed taxpayers claiming the credit, the 10-day reset applies to sick days starting 1/1/21. A nondiscrimination requirement is added, whereby no credit will be permitted to any employer who discriminates in favor of highly-compensated employees as defined under IRC Sec. 414(q), full-time employees, or employees on the basis of employment tenure. A denial of double benefit rule provides that any wages taken into account in determining the paid sick and family leave credits may not be included for determining the credits allowed under IRC Secs. 45A, 45P, 45S, 51, 3131 or 3132, and 3134. IRC Secs. 3131(f)(5) and 3132(f)(5) clarify that while no credits for paid sick and family leave may be claimed by the federal government or any federal agency or instrumentality, this prohibition does not apply to any organization described under IRC Sec. 501(c)(1) and exempt from tax under IRC Sec. 501(a), including state and local governments.	Effective 4/1/20 through 12/31/20, the Families First Coronavirus Response Act (FFCRA) required certain employers to provide paid leave to workers who are unable to work or telework due to circumstances related to COVID-19 (*qualified paid leave*). The FFCRA offsets the costs of providing qualified paid leave, up to certain amounts, with refundable tax credits against employment taxes for qualified leave wages taken 4/1/20–12/31/20. The Consolidated Appropriations Act, 2021 (CAA, 2021) extended the period for which the tax credits may be taken through 3/31/21. The paid sick leave credit for each employee is equal to the lesser of the amount of his leave pay or either (1) $511 per day while the employee is receiving paid sick leave to care for himself, up to a total of $5,110 for ten days; or (2) $200 per day, up to a total of $2,000 for 10 days, if the sick leave is to care for a family member or child whose school or place of care is closed. The paid family leave credit for each employee is the amount of his leave pay limited to $200 per day with a maximum of $10,000.

American Rescue Plan Act of 2021 (P.L. 117-2) Selected Tax and Economic Relief Provisions (Continued)				
Item	***IRC §***	***Effective Date***	***New Law***	***Before Law Change***
Payroll and Benefits Provisions (Continued)				
Unemployment Benefits Extended	—	See *New Law* column	Some of the CAA extensions from the FFCRA and the CARES Act were set to expire on 3/14/21. To avoid any gaps in provision of certain unemployment benefits, the Act was signed into law on 3/11/21. The extension date for several of the continued unemployment provisions under the Act is 9/6/21. This includes the PUA, FPUC, PEUC, funding for waiving the one-week unemployment benefit waiting period, temporary financing of STC payments for states with programs, STC agreements for states without programs, temporary assistance for states with federal unemployment advances, and full federal funding of extended unemployment compensation. If a state's unemployment trust fund that is used to pay benefits to claimants has become insolvent, the state obtains a federal unemployment loan so that unemployment payments are not at risk. There is interest on these loans to the state and some states may pass on the interest cost to employers in the form of unemployment tax assessments. So, a further temporary suspension on the accrual of interest on federal unemployment loans to states and a waiver of interest payments under the Act assists certain employers that otherwise would have to pay an unemployment tax assessment. Under the Act, the FPUC unemployment payment continues at $300 per week through 9/6/21. The Act also extends certain CARES Act unemployment provisions for railroad workers through 9/6/21. These include additional enhanced benefits under the Railroad Unemployment Insurance Act (RUIA), extended unemployment benefits under the RUIA, and extension of waiver of the one-week waiting period for benefits under the RUIA.	The FFCRA provided temporary assistance for states with federal unemployment advances and full federal funding of extended unemployment compensation. The CARES Act provisions included pandemic unemployment assistance (PUA), emergency unemployment relief for governmental entities and nonprofits, federal pandemic unemployment compensation (FPUC), full federal funding of the first week of compensable regular unemployment for states with no waiting week, pandemic emergency unemployment compensation (PEUC), temporary financing of short-time compensation (STC) payments for states with programs in their law, and temporary financing of STC agreements for states without programs in their law. Several of the FFCRA and CARES Act provisions were extended by CAA, 2021.