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APRIL 2021 NEWSLETTER

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Firm News:

New staff: We are pleased to welcome Linda A. Nelte as a new associate attorney. Linda received her J.D. from the University of San Diego School of Law in 2020 and was recently admitted to the California State Bar in January 2021. She won second place in both the *ABA Trust and Estate Law Student Writing Competition* and the *Mary Moers Wenig Law Student Writing Competition* (awarded by ACTEC) for her paper entitled, “Advancement and Ademption by Satisfaction: An Empirical Study of Parental Intent.” She graduated with a B.A. in English Literature, *Cum Laude*, from the University of California, Los Angeles in 2015. Linda was born and raised in San Diego. She enjoys trying out new restaurants and cooking new recipes in her spare time.

New Staff: We are pleased to welcome Paralegal Laura Canady to our staff. Laura graduated from San Diego State University with a B.A. in Anthropology, *Cum Laude*, Phi Beta Kappa. She also graduated from the University of San Diego with an ABA-approved Paralegal Certificate, with honors. Laura was born and raised in San Diego, but lived several years overseas in South Africa. She is married to a USMC veteran, has wonderful children, a spoiled dog, and loves reading, traveling, and the outdoors. Her many years of trust and estate experience will be a great addition to our team.

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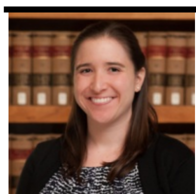


AMERICAN RESCUE PLAN ACT “ARPA”: A SUMMARY

By Katie Lepore, CPA, J.D., LL.M., Taxation and Linda A. Nelte, J.D.

On March 11, President Biden signed into law the *American Rescue Plan Act* (“ARPA”). ARPA has been touted in the news as sweeping legislation and as one of the largest aid packages ever passed in the country’s history at an approximate price tag of $1.9 trillion. It will hopefully bring relief to those households, companies, and governmental agencies that are struggling. This article outlines some of the major provisions in the bill, broken out by those affecting individuals, corporations, and then other miscellaneous provisions.

Individual Provisions

Economic Impact Payments

Under ARPA, qualifying Americans will receive a $1,400 per-person stimulus check. Those who qualify for a stimulus check include single people earning less than $75,000, heads of household earning less than $112,500, and married couples filing jointly earning less than $150,000. Partial stimulus check payments will go to single taxpayers earning up to $80,000, or $160,000 for joint filers. Additionally, qualifying taxpayers with dependents will receive $1,400 per dependent.

Unemployment Benefits

For taxpayers with income less than $150,000, the first $10,200 of unemployment benefits will be tax free, retroactive for tax year 2020. Unemployment benefits have been extended until September 6 with a weekly supplemental benefit of $300.

Earned Income Tax Credit

ARPA has provided for taxpayers to be eligible to claim the Earned Income Tax Credit beginning at age 19, instead of 25, with exceptions for full-time students aged 19-24. Also, the upper age limit cap of 65 has been removed. Childless households will enjoy expanded benefits; those households will see an increase in the credit from about $540 to about $1,500.

Child Tax Credit

APRA has increased the Child Tax Credit from $2,000 per child to $3,000 per child for children over the age of six. For children under the age of six, the Child Tax Credit is now $3,600. Further, to receive a Child Tax Credit, a parent may now qualify with a child that is age 17, increasing from the previous requirement of "under age 17." A phase-out is in effect for certain income thresholds.

Child and Dependent Care Credit

The amount of eligible expenses for the Child and Dependent Care Credit has increased to $8,000 for one qualifying individual or $16,000 for two qualifying individuals, resulting in up to a $4,000 or $8,000 credit, respectively. The maximum percentage of reimbursement of expenses is increased from 35% to 50%. A phase-out is in effect for certain income thresholds.

Affordable Care Act Coverage and Insurance

Under ARPA, health insurance premiums will be lower for qualifying low- and middle-income families enrolled in health insurance marketplaces. A cap which previously disallowed people earning 400% more than the federal poverty line from obtaining subsidies has been removed. Cost-sharing between the carrier and insured also must be reduced for such insured persons. Individuals who received unemployment or are low-income will see premiums reduced. Further, individuals who lose their jobs and elect to continue COBRA can do so with a 100% federal subsidy through September 2021, credited against the employer's Medicare employment tax. Employers are required to provide notice to any eligible individuals. Additionally, veterans should not have to pay for COVID-19 copays or preventative treatment through the VA, retroactive to April 2020.

Rental Assistance

Some $25 billion is set aside for emergency rental assistance to state and local authorities to assist residents and homeowners. Additional funds are set aside to assist those at risk of homelessness, survivors of domestic violence, and victims of human trafficking.

Student Loans

Any student loans forgiven between December 2020 and January 2026 are not taxable. The loans are not automatically forgiven; if a loan is forgiven, it will not result in discharge of indebtedness income.

Corporate Provisions

Employee Retention Credit

Similar to the employee retention credits afforded under other relief packages, ARPA provides an employee retention credit, codified in new Internal Revenue Code Section 3134, through January 1, 2022. A credit is available to certain employers for up to 70% of qualified wages up to $10,000 per quarter. To be eligible, the employer must have fewer than 500 employees and must have experienced a 20% decline in gross receipts over the same quarter in the prior year or a suspension of business due to governmental order. Additional credits are available for employers who suffered a severe financial distress.

Paid Leave Credits

Similarly, paid leave credits are extended beyond March 31, 2021 to September 30, 2021 against an employer's share of Medicare tax. Employers with fewer than 500 employees can extend paid sick leave wages or qualified family leave wages to employees waiting for the results of a COVID-19 test, if exposed, those obtaining a COVID-19 vaccine, or any employee recovering from illness or condition related to COVID-19. Some of these reasons for missing work were not previously covered. A sick credit is available to the employer for wages paid under the sick leave policy, up to $200 per employee per day, for up to 10 days. A higher credit of $511 per employee per day is available for any employees self-quarantining at the instruction of a medical professional or who are currently experiencing symptoms and are seeking diagnosis of COVID-19. The paid family leave credit is amended to no longer require a two-week period of unpaid time before providing paid family leave and the cap is increased from $10,000 to $12,000 per employee for up to a cumulative 60 days. Sick leave may be available for employees who previously used the 10-day allotment as the amount resets as of April 1, 2021.

Employer-Provided Dependent Care

APRA increases the exclusion for employer-provided dependent care in 2021. Most commonly, such dependent care is provided through means of a flexible spending account, but can include employer-subsidized day care. The limit is increased from $5,000 to $10,500 annually. Employers who take advantage of the increased limit may need to amend their underlying plan.

Grants and Loans

A sum of $15 billion is set aside for Economic Injury Disaster Loan (EIDL) grants to further expand that program for small business owners. A Restaurant Revitalization Fund of approximately $28.6 billion is set aside as a grant program for hard-hit restaurants and bars.

Paycheck Protection Program

Another $7 billion is allocated to expand the Paycheck Protection Program and also increase the number of non-profits that qualify for the program.

Miscellaneous Provisions

Vaccines and COVID Prevention

The CDC is receiving $7.5 billion for vaccine distribution and $5.2 billion is provided to the Biomedical Advanced Research and Development Authority for vaccine research and procurement. An additional $7.5 billion is provided to FEMA to establish vaccine sites across the country. Testing is also included in ARPA, with $48.3 billion set aside for testing, contract tracing, and personal protective equipment for healthcare workers. Another $10 million is allocated to produce personal productive equipment, supply vaccines, and provide rapid tests.

Education

Education was not forgotten in ARPA either, with $125 billion allocated to K-12 schools nationwide and $39.6 billion for colleges and universities. The money is provided to reduce class sizes, improve ventilation systems, purchase personal protective equipment, and other items. Of this, $7.1 billion is specifically provided to increase internet access and hotspots in schools and remotely.

Paying For The Bill

Compensation for Executives

In order to help pay for the bill, the deduction limitation under Section 162(m) is extended to additional employees. Compensation paid to a publicly traded company's highest paid employees for tax years after 2026 will have deductions under Section 162(m) reduced. A deduction for the company's covered employees – meaning the CEO, CFO, and eight next most highly compensated employees – is limited to $1,000,000 for the year. Such a change is expected to raise $6-8 billion over 10 years.

Worldwide Interest Allocation

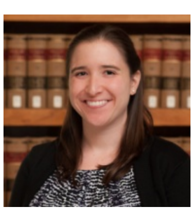
Section 864(f) of the Internal Revenue Code, which permitted taxpayers to allocate interest on a worldwide basis, was repealed. Interest could have been allocated to foreign subsidiaries. It is expected this will save $22-24 billion over 10 years.

Noncorporate Business Losses

Noncorporate excess business losses deductible under Internal Revenue Code Section 461(l) are nondeductible for an additional year through 2026. Losses in excess of $250,000 for single filers, or $500,000 for married taxpayers, are not deductible through 2026. Such restrictions on losses are expected to raise $31 billion over 10 years.

Conclusion

While the bill is far more expansive than those provisions outlined in this article, this article covers the major items affecting individuals and businesses. Please reach out to your tax advisor or employment attorney should you have further questions.



FEDERAL TAX NEWS

By Katie Lepore, CPA, J.D., LL.M., Taxation

Tax Deadline Extended. The IRS announced that the April 15, 2021 tax deadline will be extended to May 17, 2021 for individual tax returns. Such extension includes the deadline to both file and pay taxes. However, first quarter 2021 estimated tax payments remain due April 15, 2021. No other tax return types have been included in the announcement besides personal income tax. California has conformed to the May 17 filing date.

PPP Extension. On March 25, the Senate approved *H.R. 1799, the PPP Extension Act of 2021,* to extend the time that businesses can apply for a Paycheck Protection Program loan. President Biden is expected to sign it into law. Once signed, it would extend the application deadline until May 31, 2021.

Medical Expenses Can Include Protective Equipment. On March 26, the IRS announced in Announcement 2021-7 that the purchase of personal protective equipment, including masks, hand sanitizer, and sanitizing wipes, can be deductible medical expenses. Additionally, such expenses can be purchased using a flexible spending account or health savings account or similar. As a reminder, medical expenses are deductible for those taxpayers who itemize their deductions and whose medical expenses exceed 7.5% of their adjusted gross income.

Wealth Tax Bill Introduced. Senator Elizabeth Warren (D-MA) introduced legislation to institute a net worth tax on the wealthiest taxpayers. *S. 510, the Ultra-Millionaire Tax Act of 2021,* would levy a 2% tax against a taxpayer's net worth over $50 million on an annual basis. An additional 1% tax would be levied on wealth above $1 billion. Further, the bill requires a 30% audit rate on any taxpayers subject to the tax and includes penalties for any taxpayers attempting to renounce their U.S. citizenship to escape tax. This bill does not have wide support in Congress, in part because it is believed a constitutional amendment would be needed to impose it.

Estate Tax Bill. On March 25, 2021, Senator Bernie Sanders (I-VT) introduced a bill entitled *For the 99.5% Act*, which would change the estate and gift tax rules. Aimed at the top 0.5% of Americans, the bill would reduce the federal estate tax exemption to $3.5 million ($7 million for married couples). The federal gift tax exemption would be reduced to $1 million ("decoupled"). Further, estate tax rates would increase progressively to 45% for value of the estate over $3.5 million, 50% for the value of the estate over $10 million, 55% for the excess over $50 million, and 65% for the excess over $1 billion.

Transfer On Death Deeds. The 8th Circuit in *Strope-Robinson v. State Farm Fire & Cas. Co.* ruled that insurance policies do not run with the land. When using a transfer-on-death deed, the existing homeowners insurance may terminate at the decedent's death. In the case, the subsequent owner was not covered by the policy on the house despite succeeding to ownership. Homeowners with transfer-on-death deeds may want to consider adding the successor-in-interest as an additional insured or alerting the successor owner to purchase insurance in his/her name immediately following the donor's death.

CALIFORNIA TAX UPDATE
By Katie Lepore, CPA, J.D., LL.M., Taxation

Tax Return Deadline Extended. As stated above, California has conformed to the federal individual income tax extension to May 17. The extension does not extend to quarterly income tax payments, which remain due April 15.

Change in Ownership Bill. Senator Patricia Bates (R-San Diego) introduced *SB 706* in the California legislature to define a "change in ownership" for property tax laws to happen if 90% or more of the direct or indirect ownership interests in a legal entity are sold or transferred in a single transaction. Such change in ownership would be regardless if any single person or entity obtained control. Additionally, the penalty for failure to file a "change in ownership" statement would be increased from 10% to 15% of the new base year value. The bill is with the Committee on Governance and Finance.

Base Year Transfers. Starting this month, taxpayers over age 55 who sell a primary residence and purchase a new one in California will be able to transfer the tax basis of their prior home to the new home under Prop 19. If the difference between the assessed value of the old and new home is greater than $1 million, the taxpayer will be reassessed on the excess value. The Board of Equalization continues to release new guidance and proposed new property tax rules regularly. For the most up-to-date information on Prop 19 changes, go to [Proposition 19 – Board of Equalization (ca.gov)]

California 1099 Filing Requirement. The FTB announced that certain business taxpayers need to file IRS Form 1099-NEC if they paid $600 or more during tax year 2020 to a California full- or part-year resident.

Reduced Franchise Tax Proposed for Partnerships. *AB 91*, introduced by Suzette Martinez Valladares (R-Santa Clarita), would offer a reduced franchise tax to small and "micro" partnerships of $400 or $200, respectively, effective as of January 1, 2021. A similar bill, *AB 632*, would reduce the $800 franchise tax from 2022 through 2027 on corporations with less than $15 million in revenue. Corporations with $2.5 million in revenue would pay $200, those with $7 million would pay $400, and those with $7.5 million would pay $600. Both bills are currently in committee.

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