

# American Rescue Plan Extends Tax Credits, Funds COBRA

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Lawmakers have passed the American Rescue Plan Act, allowing companies to continue receiving tax credits under certain conditions through September, along with other changes.

The Families First Coronavirus Response Act, which initially allowed for the tax credits, expired on December 31. But the Consolidated Appropriations Act of 2021 allowed employers to receive tax credits through March 31, 2021, if they voluntarily complied with the expired coronavirus relief regulations.

The [American Rescue Plan Act continued to make updates, adding five important changes](#) to the tax credits beginning April 1:

**Tax credits are extended through September 30, 2021.** A qualified employer who voluntarily complies with federal regulations can now receive tax credits for paid sick leave wages or emergency FMLA wages through September 30.

**Expanded reasons for paid sick leave and emergency FMLA.** The American Rescue Plan now allows a credit for wages paid to an employee who is:

- Seeking or awaiting the results of a diagnostic test or medical diagnosis of COVID-19 because the employee has been exposed to COVID-19 or the employer requested the test or medical diagnosis.
- The employee is obtaining a COVID-19 vaccine.
- The employee is recovering from injury, disability, illness, or condition related to receiving a COVID-19 vaccine.

**Employees receive another 10 days of paid sick leave.** Another 10 days of paid sick leave will be available to employees on April 1.

**The reasons for emergency FMLA and monetary cap are expanded.** The qualifying reasons for emergency FMLA are no longer limited to just caring for a child whose school or place of care is closed because of COVID-19. The 10-day waiting period for the paid family leave is eliminated. The qualifying reasons now include the same qualifying reasons as paid sick leave. The monetary caps for family paid leave are two-thirds of the employee's regular rate up to \$200/day and a total tax credit of \$12,000/person. The 12 weeks of emergency FMLA is also reset as of April 1.

**Employers cannot discriminate.** Employers cannot receive a tax credit if it favors highly paid employees, full-time employees, or based on employment tenure in providing paid sick leave and emergency FMLA.

The American Rescue Plan Act also gives laid-off employees a 100% COBRA subsidy for up to six months. The subsidy applies to anyone who has lost health coverage since November 1, 2019, because of an involuntary termination or reduction in hours, and is funded by a payroll tax credit taken by the employer. It does not include employees that quit or retire.

No later than May 31, 2021, employers must notify these employees and their covered family members of the opportunity to obtain health coverage, even if they did not initially elect COBRA. The U.S. Department of Labor is expected to issue model notices within the next 30 days.

In light of the required COBRA subsidy, employers offering severance packages that typically include COBRA reimbursement may want to eliminate that feature from packages. Employers should also prepare for the likely increase in COBRA elections and coordinate with their COBRA administrators to ensure that they will promptly send out notices and appropriately document the tax credits.

If you have questions about any of the updates in the American Rescue Plan Act, please contact [Michael Crocenzi](#), [Joshua Schwartz](#) or any member of the [Barley Snyder Employment Practice Group](#).

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## WRITTEN BY:

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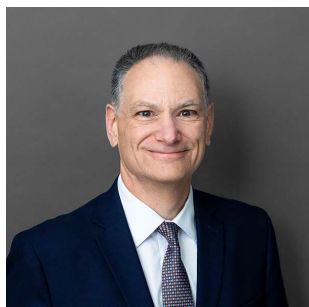


**Joshua L. Schwartz**

Partner

Tel: (717) 399-1535

Email: [jschwartz@barley.com](mailto:jschwartz@barley.com)



**Michael J. Crocenzi**

Partner

Tel: (717) 814-5417

Email: [mcrocenzi@barley.com](mailto:mcrocenzi@barley.com)