COVID-19 Update

The American Rescue Plan Act of 2021 Further Extends COVID-19 Relief

March 12, 2021

The recently passed American Rescue Plan Act of 2021 (ARP) further extends several COVID-19 relief measures that were initially created in March 2020 through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and extended in the Consolidated Appropriations Act, 2021 (CAA). These extensions include the Paycheck Protection Program (PPP), Employee Retention Credit (for employers), and employer tax credits related to the Families First Coronavirus Response Act (FFCRA).

The ARP is estimated to inject nearly $1.9 trillion into the economy through a variety of relief measures.

The bill seeks to accomplish this through policies to combat the pandemic, stimulate the economy, and provide broader economic relief to Americans.

Some key general provisions of the ARP include:

- **$1,400 stimulus checks to many Americans:** The full checks will go to individuals making up to $75,000 a year and couples filing jointly making up to $150,000 a year, including adult dependents for the first time. But the phaseout beyond those limits will be quicker than the $600 stimulus checks provided through the CARES Act and CAA.
- **A continued $300-per-week boost to unemployment insurance (UI):** Individuals receiving jobless benefits will continue receiving an extra $300 weekly through **September 6**. In addition, the first $10,200 in UI benefits won't be taxable, retroactively, for households with incomes under $150,000. Without this new extension, the increased benefits were set to expire on March 14, 2021.
- **A boost to the child tax credit and other tax credits:** The child tax credit will increase to $3,600 temporarily for children under age 6 and $3,000 for children up to age 17, and more people will fully qualify. Other tax credits, like the child and dependent care tax credit and earned income tax credit, are increased temporarily under the ARP, too. In addition, the limit on contributions to a dependent care flexible spending account in 2021 was increased from $5,000 to $10,500.
- **Funding for K-12 schools and higher education:** About $170 billion is geared toward helping schools reopen, while also providing relief to students and trying to address concerns over "learning loss" as schools shut down in-person learning in the past year.
- **Improved access to health care:** The ARP includes an increase to individual marketplace premium tax credits (subsidies) under the Affordable Care Act (ACA or "Obamacare") and adds

additional incentives for states to expand Medicaid. As explained in more detail below, the ARP creates subsidies for COBRA continuation coverage, under which employees who recently lost their jobs can continue coverage in an employer plan.

- **Public health efforts against COVID-19:** The ARP adds tens of billions of dollars in new funding for coronavirus testing and contact tracing, vaccines, and increasing the size of the public health workforce.
- **Relief for state, local, and tribal governments:** The ARP provides $350 billion to help some jurisdictions that experienced tax revenue drops and budget challenges as a result of the pandemic.

As explained below, the ARP extends some important programs established under earlier pandemic relief bills, many of which have assisted United Methodist local churches, annual conferences and other organizations.

Paycheck Protection Program

The PPP lending program was initially created by the CARES Act in late March 2020 and was extended by the CAA in December 2020 via additional funding and refinements to further help small businesses, including tax-exempt organizations. Churches and other religious organizations are eligible for PPP loans. In January 2021, Wespath and the General Council on Finance and Administration (GCFA) partnered to provide an **Update** with FAQs to assist local churches, annual conferences, and other Church-related organizations in considering whether to apply for a "Second Draw" PPP loan.

The ARP expands the eligibility of certain nonprofit entities for PPP loans.[1] Specifically, a nonprofit under Section 501(c)(3) of the Internal Revenue Code (which includes organizations operated exclusively for religious purposes) can be eligible for a PPP loan if they employ no more than 500 employees *per physical location of the organization*. Prior to March 11, 2021, this headcount threshold was 500 employees employed by the organization in total.

Employee Retention Credit

The ERC was created through the CARES Act. This credit provides an incentive to encourage employers to retain employees despite economic constraints due to the impact of COVID-19. The CAA extended the ERC into the first two calendar quarters of 2021 and made significant changes to the ERC, including increasing the credit amount and expanding eligibility to more employers. In an **Update** issued in February 2021, we provided a detailed summary of the CAA's impact on the ERC.

The ARP further extends the ERC through **December 31, 2021**.[2] The ARP makes a change to the procedure for claiming the ERC: **after June 30, 2021**, the ERC will be a refundable credit against the employer's share of *Medicare* taxes, rather than its *Social Security* taxes (as is currently the case under both the CARES Act and CAA). However, this technical change will not have a practical impact for many employers because, to the extent an employer's ERC exceeds its Medicare taxes due in a given quarter, the IRS allows employers to reduce other employment taxes (i.e., Social Security taxes and income taxes withheld) due in the same quarter by the excess ERC amount.

[1] These provisions were in Section 6001 of the ARP.
[2] These provisions were in Section 9651 of the ARP.

In addition, the ARP adds special provisions for "severely financially distressed employers," which means an eligible employer that suffered a decline in gross receipts of 90% or more when comparing either: (i) the applicable calendar quarter of 2021 to the same quarter in 2019, or (ii) the calendar quarter immediately preceding the applicable calendar quarter of 2021 to the same quarter in 2019. In general, for an employer with more than 500 employees, the ERC is limited to wages paid to employees for periods when they are not working. [3] The ARP creates an exception to this rule for severely financially distressed employers such that they may claim the credit on wages paid to employees who continued to work during the applicable calendar quarter.

Family and Medical Leave

The FFCRA passed in March 2020 required most employers with fewer than 500 employees to provide paid sick leave and expanded family and medical leave related to COVID-19. The FFCRA also provided such employers with tax credits to support the new leave mandates.

The FFCRA's leave mandates expired on **December 31, 2020**. After that date, employers were no longer *required* to provide the paid sick leave and expanded family and medical leave related to COVID-19. However, the CAA extended the FFCRA's tax credits through **March 31, 2021**, as an incentive for employers to *voluntarily* continue to provide such paid leave. In an **Update** issued in February 2021, we provided a detailed summary of the CAA's impact on the FFCRA's tax credits.

The ARP further extended the FFCRA's tax credits through **September 30, 2021**, to continue to incentivize employers to voluntarily provide paid leave.[4] In addition, the ARP made the changes described below to the FFCRA's tax credits effective for calendar quarters **after March 31, 2021**. Please note that under the FFCRA, paid "sick leave" is subject to different rules and limitations than paid "family and medical leave." Some of the changes below apply only to one type of paid leave.

- The credits are expanded to cover paid sick time and family and medical leave taken by an employee to obtain a COVID-19 vaccine or recover from an injury, disability, illness, or condition related to a COVID-19 immunization.
- The 10-day maximum on the aggregate number of days for which an employer can claim the credit for paid sick leave taken by an employee is reset. This means that the current 10-day limitation applies to paid sick leave taken in the aggregate by an employee in 2020 through **March 31, 2021**, and a new 10-day limitation applies to paid sick leave taken in the aggregate by an employee from **April 1, 2021 through September 30, 2021**.
- The credit for paid family and medical leave is expanded to cover paid leave taken by an employee who is unable to work for any reason that was covered by the FFCRA's paid sick leave mandate before it expired on **December 31, 2020**.[5]

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[3] See our February 2021 Update on the Employee Retention Credit for more information about employer eligibility and qualified wages.

[4] These provisions were in Sections 9641-9643 of the ARP.

[5] This includes any of the following reasons: (i) the employee is subject to a Federal, State, or local quarantine or isolation order related to COVID–19; (ii) the employee has been advised by a health care provider to self-quarantine due to concerns related to COVID–19; (iii) the employee is experiencing symptoms of COVID–19 and seeking a medical diagnosis, the employee is seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, COVID–19 and such employee has been exposed to COVID–19 or the employee's employer has requested such test or diagnosis, or the employee is obtaining immunization related to COVID–19 or recovering from any injury, disability, illness, or condition related to such immunization; (iv) the employee is caring for an individual who is subject to an order as described in one of the first two items in this list; (v) the employee must

- The maximum amount of paid family and medical leave wages an employer may claim toward the credit is increased from $10,000 to **$12,000 per employee per year**.
- The credit for paid sick and paid family and medical leave can be increased by the employer's share of Social Security and Medicare taxes on the paid leave wages.
- Similar to the change described above for the ERC, **after June 30, 2021**, the FFCRA tax credit will be a refundable credit against the employer's share of *Medicare* taxes, rather than its *Social Security* taxes (as is currently the case under both the CARES Act and CAA). However, this technical change will not have a practical impact for many employers because, to the extent an employer's FFCRA tax credit exceeds its Medicare taxes due in a given quarter, the IRS allows employers to reduce other employment taxes (i.e., Social Security taxes and income taxes withheld) due in the same quarter by the excess FFCRA credit amount.
- An employer is not eligible to receive the credit for any calendar quarter in which the employer discriminates in favor of highly compensated employees, full-time employees, or employees on the basis of tenure, with respect to the availability of paid sick time or family and medical leave.

Unemployment Insurance Benefits

The CARES Act expanded and enhanced UI benefits available under state unemployment programs. Wespath summarized these benefits and their applicability for employees of nonprofits and religious organizations in a COVID-19 **Update** we issued shortly after the passage of the CARES Act. Key changes to these unemployment benefit programs made by the ARP[6] are summarized below.

- The ARP extends the Pandemic Unemployment Assistance Program (PUAP) created by the CARES Act through **September 6, 2021**. The PUAP provides UI benefits to individuals not traditionally eligible for them, such as some self-employed individuals, independent contractors, and employees of religious organizations not eligible under a state's program.
- The CARES Act subsidized 50% of the cost of self-insured UI benefits paid by nonprofits. The ARP extends this subsidy for UI benefits provided through **September 6, 2021** and increases it to **75%** for UI benefits provided after **March 31, 2021**.
- The CARES Act provided up to 13 weeks of additional UI benefits through December 31, 2020. Given that most states cap benefits at 26 weeks, this generally extended benefits to 39 weeks. The CAA extended this for another 11 weeks, for a total of 50 weeks. The ARP further extends this by 29 weeks, for a **total of 79 weeks**.
- The CARES Act provided for a $600 weekly supplement in UI benefits that expired in 2020. The supplement was revived by the CAA but reduced to $300 per week through March 14, 2021. The ARP extends the supplement through **September 6, 2021** at $300 per week.
- The ARP provides a tax exemption for the first $10,200 an individual receives in UI benefits for households with incomes under $150,000. This exemption is retroactive to January 1, 2020.

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care for a child because the child's school or daycare is closed or because the child's childcare provider is unavailable due to COVID–19 precautions; and (vi) the employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

[6] These provisions were in Sections 9011-9032 of the ARP.

Health Plan COBRA Coverage Subsidy

The ARP provides a federal subsidy for certain health plan continuation coverage.[7] Continuation coverage for most non-church plans is commonly referred to as "COBRA," an acronym for the Consolidated Omnibus Budget Reconciliation Act of 1985, which created the continuation coverage mandate. Church plans are not required to provide COBRA coverage under federal law. However, it is common for church plans to provide continuation coverage that is very similar to COBRA coverage.

The Church Alliance, with Wespath's support, made significant efforts to educate members of Congress on continuation coverage provided by church plans and convince them that the ARP's subsidy should cover church plan continuation coverage despite not being "COBRA" coverage. While several members of Congress were sympathetic on the issue, the complexity of the bill and the speed at which it was moving through Congress made it incredibly challenging to convince members of Congress that there was sufficient time to thoughtfully amend the bill to add church plan continuation without delaying passage of the bill. As such, unfortunately, the ARP's subsidy does *not* cover continuation coverage provided by church plans. Similarly, the American Recovery and Reinvestment Act of 2009, which was the economic stimulus package passed in response to the "Great Recession," included a COBRA subsidy that did not cover self-insured church plans that were exempt from COBRA.[8]

Under the ARP, the federal government will subsidize 100% of the cost of COBRA coverage for certain employees and covered family members who lose coverage due to a reduction in hours or involuntary termination of employment. The subsidy would be available from **March 11, 2021** through **September 30, 2021** (or, if earlier, until an individual is eligible for certain other group health plan coverage or Medicare).

Additional Resources

Families First Coronavirus Response Act (FFCRA)

- FFCRA Summary
- FFCRA Q&A
- FFCRA Update under Consolidated Appropriations Act, 2021

Paycheck Protection Program (PPP)

- PPP Summary
- PPP Q&A

Employee Retention Credit (ERC)

- ERC Update under Consolidated Appropriations Act, 2021

More Information Related to COVID-19

- General Council on Finance and Administration
- Wespath Benefits and Investments

The information above should not be considered legal or tax advice. Plan participants, annual conferences, local churches, or other employers or parties affiliated with The United Methodist Church (UMC) should consult with counsel and other advisors in considering the application of the coronavirus-related laws and guidance to their circumstances.

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[7] These provisions were in Section 2401 of the ARP.

[8] The subsidy provided by the American Recovery and Reinvestment Act of 2009 covered continuation coverage provided by fully insured church plans required to provide such coverage under applicable state law.