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An Employer's Guide to The American Rescue Plan – FFCRA Credits, Unemployment, Pension Bailouts and More

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On March 11, 2021, the American Rescue Plan Act ("Rescue Plan") was signed into law. The law made headlines for its "stimulus payments" but also contained a myriad of provisions, discussed below, that significantly impact employers.

FFCRA Voluntary Tax Credit Extension

The American Rescue Plan Act extends **voluntary** tax credits relating to employee leave taken for Covid-19 related reasons under the Families First Corona Virus Response Act ("FFCRA"). The credits were previously set to expire on March 31, 2021, and have now been extended to September 30, 2021. There is no extension of the mandatory leave provisions, accordingly allowing employees to utilize FFCRA leave remains voluntary for employers. The legislation allows these tax credits for paid sick or family leave based on the reasons provided in the old FFCRA, plus new qualifying reasons that include time off for vaccination as well as Covid-19 diagnostic testing or Covid-19 related medical recovery. For participating employers, the Rescue Plan provides an additional 10 days of FFCRA leave/tax credits beginning April 1, 2021.

A more detailed analysis about the Rescue Plan's new voluntary FFCRA expansion is available [here](#).

Unemployment

The Rescue Plan provides federal funding for unemployment benefits for eligible workers at a rate of \$300 per week (plus state unemployment) until September 6, 2021. This is an extension of the prior Federal Pandemic Unemployment Compensation ("FPUC"). The Rescue Plan also extended the coverage period for those receiving Pandemic Unemployment Assistance ("PUA") (relating to those not traditionally eligible for unemployment such as self-employed or "gig" workers) as well

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as the coverage period for the Pandemic Emergency Unemployment Compensation (“PEUC”) (for those who are traditionally eligible but who have exhausted benefits). In Michigan, additional information is available from the State Unemployment Insurance Agency.

COBRA

For employees who are involuntarily terminated, the Rescue Plan provides new COBRA continuation notice, and subsidy rules. Essentially, depending on the circumstances, the Rescue Plan requires an employer, plan, or insurer, to provide subsidized COBRA coverage that would be reimbursable through tax credits/offsets and can include eligibility based on an employee’s reduction in hours. These new rules are the subject of their own article, available [here](#).

“Critical and Declining” Pension Assistance

The new law also includes lump sum payments to certain multi-employer pension funds who are in “critical and declining status” and meet particular criteria. These payments provide funding for these pensions to maintain benefits through 2051. This is an issue for employers in multi-employer pension funds to watch as it may impact withdrawal liability and, in turn, whether employers seek to withdraw from these funds. In particular, future regulations may limit the ability to use the government money to lower any withdrawal liability and affected companies should watch this issue closely.

Items Cut from Final Legislation

It is important to note that early proposals that were reported in many news outlets did not make it into the final law. For instance, items not included in the final American Rescue Plan include the \$15 minimum wage with the proposed elimination of the tip credit as well as additional mandatory paid leave rules. In addition, earlier versions of the legislation specifically included a provision regarding the pension bailout that would have prohibited the funds to be used to lower employer withdrawal liability for the first 15 years. While this provision was cut from the final law, as noted, future regulations may include similar provisions. In addition, some lawmakers have discussed introducing separate bills to include many of the above provisions that were cut from the Rescue Plan.

This Alert is intended to provide general information regarding frequently asked questions. These are complex issues of employment law as well as raises significant tax issues. You should consult your Butzel attorney as to how these issues impact your specific company.

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