

Paid Leave Provisions in the ARP: Frequently Asked Questions

What are the paid leave provisions in the American Rescue Plan?

The American Rescue Plan Act [expands and extends](#) the emergency paid sick and paid family leave tax credits to employers that were created in the 2020 Families First Coronavirus Response Act (FFCRA). These tax credits now cover up to ten days of paid sick leave and up to twelve weeks of paid family leave for covid-19 related reasons, both capped at a rate of \$200 per day.

Is paid leave mandatory for employers?

No, this law does not reinstate the FFCRA's requirement that employers provide paid leave. That requirement expired on December 31, 2020. There is no longer any guaranteed paid leave for anyone – which is why pushing for a permanent national paid leave program structured as a benefit to workers for all FMLA reasons is so important!

Which types of employers are eligible for these paid leave tax credits?

These credits are available to private sector employers with fewer than 500 employees, self-employed workers, and state and local government employers. There are also separate paid leave provisions in this law for federal employees.

What is the timing for voluntary paid leave tax credits?

Employers can get tax credits for qualified wages, health plan expenses, and collectively bargained defined benefit pension plan contributions for employee paid time off between April 1, 2021 and September 30, 2021. The law resets the time off clock for paid sick leave on March 31, 2021, which means employers can get credits for giving workers their full ten sick days before that date, and also for giving their workers up to another ten days after.

What changes were made to the paid leave tax credits?

The law makes the following improvements to the tax credits for now-voluntary paid leave:

- Increases the total amount of wages for paid family leave for which an employer can claim the credit in a year from \$10,000 to \$12,000 per employee
- Expands the purposes allowed for paid family leave to include all of the purposes for paid sick leave (personal health and family caregiving, in addition to caring for a child whose school or place of care has closed)
- Allows credits for an employee who is receiving a vaccination or recovering from its side effects
- Prevents employers from claiming the credit if they make leave available in a manner that discriminates in favor of highly compensated employees, full time employees, or based on employment tenure with the employer
- Resets the ten-day clock for paid sick leave on March 31, 2021 so that anyone who took such leave in the past year can take another ten days after March 31
- Allows access to tax credits for state and local government employers, as well as Tribal governments and Federal governmental instrumentalities that are tax-exempt 501(c)(1) organizations

Are the voluntary paid leave tax credits retroactive for state and local governments, which did not have access to them last year or the first quarter of this year?

No. Unfortunately, state and local governments can only claim credits for the period between April 1, 2021 and September 30, 2021.

In what form are tax credits provided to state and local governments?

This next round of tax credits will be applied against Medicare HI (hospital insurance) taxes, which state and local governments pay into for their employees. The exact mechanical details of how the reimbursement works will be worked out by the IRS through rulemaking.

Do these provisions cover our home care bargaining units that are public for collective bargaining only?

The tax credit language doesn't specifically address how these home care workers are treated. We need to research this and see if we can make it available to these workers through rulemaking.

Sources

ARP full text

<https://www.congress.gov/bill/117th-congress/house-bill/1319/text>

Paid leave section of ARP

<https://www.congress.gov/bill/117th-congress/house-bill/1319/text#toc-H0C64EDF517EE4199858EAB8014344039>

NCSL ARP summaries

<https://www.ncsl.org/ncsl-in-dc/publications-and-resources/american-rescue-plan-act-of-2021.aspx>

https://www.ncsl.org/Portals/1/Documents/statefed/The-American-Rescue-Plan-Act-Provisions_v01.pdf

ARP section-by-section

<https://www.democrats.senate.gov/imo/media/doc/ARP%20-%20Title-by-Title%20Summary.pdf>

Mia's write-up

<https://docs.google.com/document/d/1aTpZIJavYFqnaXCcAnryVLxQ4rguGuahlcYAC3RPQa8/edit?usp=sharing>

IRS tax credit guidance (needs to be updated to include ARP)

<https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-paid-leave-provided-by-small-and-midsize-businesses-faqs>

A Better Balance fact sheet

<https://www.abetterbalance.org/resources/american-rescue-plan-fact-sheet/>