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Congress Passes the American Rescue Plan Act of 2021

The [American Rescue Plan Act of 2021 \(the Act\)](#), which Congress passed and President Biden is expected to sign today, grants relief to taxpayers and extends and/or modifies certain relief initially enacted in prior bills such as the Families First Coronavirus Response Act (FFCRA), the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), and the most recently enacted Consolidated Appropriations Act, 2021 (CAA 2021). (See our ongoing coverage of COVID-19 related legislation [here](#).) Below is a brief summary of the Act. (References to the Code below are references to the Internal Revenue Code of 1986, as amended. Section references below are references to sections of the Act.)

- [Extension of Certain Unemployment Benefits \(Sections 9011 thru 9018 and Sections 9021 and 9022\)](#) – Certain provisions covering unemployment assistance and compensation are extended through Sept. 6, 2021.
- [Extension of limitation on excess business losses of noncorporate taxpayers \(Section 9041\)](#) – Code Section 461(l) was amended to provide that the limitation on the deduction for excess business losses will continue to apply to noncorporate taxpayers for taxable years beginning after Dec. 31, 2017, and before Jan. 1, 2027 (previously Jan. 1, 2026). Generally, Code Section 461(l)(3)(A) provides that an “excess business loss” is the excess of the (1) taxpayer’s aggregate trade or business deductions for the tax year over (2) the sum of the taxpayer’s aggregate trade or business gross income or gain plus \$250,000 (as adjusted for inflation).
- [Suspension of Tax on Portion of Unemployment Compensation \(Section 9042\)](#) – For any taxable year beginning in 2020, this section exempts from a taxpayer’s gross income \$10,200 of unemployment compensation received by such taxpayer (or, in the case of a joint return, received by each spouse), if the taxpayer’s adjusted gross income is less than \$150,000.
- [2021 Recovery Rebates \(Section 9601\)](#) – Recovery rebates paid in 2021 generally will be \$1,400 per taxpayer and will be reduced for single taxpayers with an adjusted gross income of more than \$75,000 (\$150,000 for joint filers) and fully phased out by \$80,000 (\$160,000 for joint filers).
- [Child Tax Credit for 2021 \(Sections 9611 and 9612\)](#) – For any tax year beginning in 2021, the child tax credit is increased to \$3,000 from \$2,000 (and up to \$3,600 in certain instances) and expanded to include children that are 17 yrs. old. The enhanced credit begins to phase out for single filers with modified adjusted gross income above \$75,000 (\$150,000 for joint filers).
- [Earned Income Tax Credit \(Sections 9621 thru 9632\)](#) – For 2021, the minimum age of an eligible individual who is able to claim the credit is expanded to cover individuals who are 19 yrs. old (and for certain individuals who are 18 yrs. old), the credit and phaseout percentages are increased, the credit is allowed in certain cases of separated spouses, and the disqualified investment income test is modified.
- [Dependent Care Assistance \(Sections 9631 thru 9632\)](#) – The Child and Dependent Care Tax Credit, under Code Section 21, is made refundable for tax years beginning in 2021

and the creditable amount is increased and the phaseout expanded, and Code Section 129 is amended to increase the exclusion for employer-provided dependent care assistance.

- Credits for Paid Sick and Family Leave (Sections 9641 thru 9643) – Code Sections 3131, 3132, and 3133 are added to provide employer credits for certain paid sick and family leave. Similar credits are available for certain self-employed individuals.
- Employee Retention Credit (Section 9651) – The credit is expanded to include recovery startup businesses.
- Repeal of election to allocate interest, etc. on a worldwide basis (Section 9671) – Subsection (f) of Code Section 864, the election by a worldwide affiliated group to allocate and apportion interest expense worldwide, is removed for taxable years beginning after Dec. 31, 2020.
- Tax treatment of targeted EIDL advances (Section 9672) – Economic Injury Disaster Loan (EIDL) advances from the SBA shall not be included in the gross income of the recipient.
- Tax treatment of restaurant revitalization grants (Section 9673) – Restaurant revitalization grants, as added by the Act under Section 5003, shall not be included in the gross income of the recipient.
- Modification of treatment of student loan forgiveness (Section 9675) – Student loan forgiveness is expanded for certain student loan discharges in 2021 through 2025.

IRS Notice on FAQs for the Employee Retention Credit

The IRS [announced](#) its release of [Notice 2021-20](#), which provides guidance for employers claiming the employee retention credit under the CARES Act. The employee retention credit was first provided for under the Coronavirus Aid, Relief, and Economic Security Act and amended by the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (Relief Act, part of the CAA 2021). (See our prior coverage [here](#) and [here](#).)



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Generally, the employee retention credit is equal to 50% of qualified wages paid, including qualified health plan expenses, for up to \$10,000 per employee in 2020. The maximum credit available for each employee is \$5,000 in 2020. Notice 2021-20 provides answers to questions such as: who are eligible employers; what constitutes full or partial suspension of trade or business operations; what is a significant decline in gross receipts; how much is the maximum amount of an eligible employer's employee retention credit; what are qualified wages; how does an eligible employer claim the employee retention credit; and how does an eligible employer substantiate the claim for the credit. The guidance provided in the Notice addresses the employee retention credit as it applies to qualified wages paid after March 12, 2020, and before Jan. 1, 2021. It does not address the changes made by section 207 of the Relief Act that apply to the employee retention credit for qualified wages paid after Dec. 31, 2020; such guidance will be forthcoming.

IRS Updates Virtual Currency Transaction FAQs

The IRS has updated its [FAQs on virtual currency transactions](#). Specifically, the IRS has updated Question 5, which covers which virtual currency transactions must be reported on an individual's Form 1040.