Government updates – April 2, 2021

* Federal income tax filing due date for individuals for the 2020 tax year is automatically extended from April 15, 2021 to May 17, 2021
  + Also extends other tax deadlines that would normally fall on April 15
    - IRA, Roth IRA, HSA, Archer MSA, and Coverdell ESA contributions
    - Filing certain claims for refund (three year window)
* President Biden signed HR 1319 – the American Rescue Plan Act of 2021 (ARPA) into law on March 11, 2021. Highlights include:
  + Extends emergency COVID-19 relief
  + Another round of economic impact payments - $1,400 per person
  + Extends unemployment insurance benefits
  + Further extends the tax credits available to eligible employers for voluntarily provided qualified leave wages paid for leave taken from April 1 through September 30, 2021 (the requirement to provide leave expired on December 31, 2020)
  + State and local government employers eligible effective April 1 for the tax credits for qualified leave wages paid for leave taken through September 30, 2021
  + Adds three reasons for granting emergency paid sick leave (limited to $511 per day)
    - When an employee is seeking or awaiting the results of a COVID-19 test if the employee has been exposed to COVID-19 or the employer has requested the test
    - Obtaining a COVID-19 vaccine
    - Recovering from a COVID-19 vaccination
  + Expanded family and medical leave
    - Increased the amount of wages eligible for the tax credit for expanded family and medical leave wages from $10,000 to $12,000 per employee
    - All 12 weeks may now be paid, and employers may receive a tax credit for the qualified wages paid at a rate of 2/3 the employee’s regular rate of pay (up to $200 per day)
    - The three reasons added for emergency paid sick leave also qualify for expanded family and medical leave
  + Employee retention credit (ERC) extended to qualified wages paid between July 1 and December 31, 2021
    - Credit of 70% or qualified wages for each quarter (with a cap at $10,000 per quarter per employee)
    - Degree to which an eligible employer’s gross receipts must be reduced to qualify adjusted from 50% to 20%
    - Definition of large employer was increased from 100 to 500 employers
    - Retains the CAA provision allowing an employer to receive a Paycheck Protection Program (PPP) loan and qualify for the ERC so long as the wages taken into consideration for the tax credit are not paid with forgiven PPP loan proceeds
    - Expanded to businesses started after February 15, 2020, if annual receipts are less than $1 million; may be eligible even if not shut down due to a COVID-19 lockdown order or did not experience a significant reduction in receipts; credit for these start-up businesses limited to $50,000 per quarter
  + COBRA tax credit subsidy of 100% of premiums for medical, dental, and vision coverage for assistance-eligible individuals (AEIs) from April 1 to September 30, 2021
    - May claim the credit as a quarterly payroll tax credit on Form 941 or as an advance credit
    - Credit is refundable and the IRS will issue guidance on allowing and advanced credit
    - Credit may only be claimed against the employer’s share of Medicare tax; if it exceeds the quarterly Medicare payroll tax, excess amount will be treated as an overpayment
  + Increased maximum amount of dependent care assistance excluded from an employee’s gross income from $5,000 to $10,500 (from $2,500 to $5,250 for married individuals filing separately) for 2021.
  + Extension and modification of the unemployment assistance originally provided through September 6, 2021
  + Expansion of the availability for PPP loans for nonprofit organizations
* DOL proposes more changes and delays to FLSA Tip Rules
  + Two portions will go into effect on April 30, 2021 (previously scheduled to take effect on March 1, 2021)
    - Prohibit employers (including managers and supervisors) from keeping their employees’ tips, regardless of whether the employer takes a tip credit
    - Allow employers that do not take a tip credit to include non-tipped workers (including cooks and dishwashers) in nontraditional tip-sharing agreements
  + Proposed changes to the December employee tip regulations
    - Expand the circumstances in which the DOL can assess civil penalties and a request for comments on whether to extend the rule’s protections to tipped managers and supervisors
    - Further extend the delay for certain penalty provisions, as well as the rule for how to apply tip protections to employees who perform both tipped and non-tipped work, to December 31, 2021
    - Invites comments on both proposed rules at www.regulations.gov
* IRS Released 2021 Form 941, Instructions for Form, Schedule B and Schedule R on March 9, 2021
  + Cautioned not to use an earlier revision of Form 941 to report taxes for 2021 and not to use the March 2021 revision of Form 941 to report taxes for any quarter ending before January 1, 2021
  + March 9 was prior to the American Rescue Plan Act of 2021 being signed into law; updates caused by the new legislation will be posted at <https://www.irs.gov/forms-pubs/about-form-941>
  + Instruction changes
    - Extensions for the credits for qualified emergency sick and expanded family and medical leave wages and the employee retention credit
    - Advance payment of COVID-19 credits
    - Expiration of the deferral of the employer share of social security tax
    - Expiration of the deferral of the employee share of social security tax
    - How to pay the deferred amounts
    - New payroll tax credit for certain tax-exempt organizations affected by qualified disasters
* IRS Posts New Drafts of 2022 Forms W-4P, W-4R