HR1319, American Rescue Act
On March 11, 2021, HR1319, known as the American Rescue Act, was signed into law. It is the largest COVID-related stimulus to date and includes rebate payments to individuals, unemployment insurance enhancement, and aid to state and local governments.

PPP: 501c7 Tax Status Qualifies But Prohibitive SBA Language Remains
- This legislation provides $7.25B million in funding for the Payroll Protection Program (PPP) and extended eligibility to most 501(c) nonprofit organizations. This would include 501(c)(7) social clubs.
- Unfortunately, it did not address the existing Small Business Administration rule (SBA Title 13, Chapter I, Part 120, Subpart A, 120.110) which prohibits “Private clubs and businesses which limit the number of memberships for reasons other than capacity” from using SBA loan programs. Without a legislative or regulatory fix to the SBA language, most clubs will still not qualify to receive a PPP loan.
- In addition, the legislation failed to extend the PPP’s application expiration date of March 31. However, a fix is likely coming shortly as the House Small Business Committee has already approved a measure to extend this expiration to May 31.

Further Extension of the Employee Retention Tax Credit to December 31
- Created in HR 748, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) in March 2020, has been extended to wages paid through December 31, 2021 (previously it would have expired July 1, 2021).
- Clubs should be aware of the recently released Internal Revenue Service (IRS) guidance which clarifies how to determine the effect of a partial shutdown (Questions 17 and 18) and eligibility when a shutdown order is lifted in the middle of a quarter (Question 22).

Paid Sick & Family Leave Tax Credits Enhanced and Extended to September 30
- Established as part of the HR6201, the Families First Coronavirus Response Act (FFCRA), private sector employers with fewer than 500 workers are required to provide emergency paid family leave (up to 12 weeks) or COVID-19-related sick leave (80 hours). The mandate to provide the leave expired December 31, 2020, but employers may continue to voluntarily provide such leave and take advantage of refundable tax credits to cover the cost of providing.
- Two new qualifying reasons for leave have been added:
  1. 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 is unable to work pending the results of such test or diagnosis.
  2. The employee is obtaining immunization related to COVID–19 or recovering from any injury, disability, illness, or condition related to such immunization.
- The tax credits were set to expire March 31, but can now be used through September 30, 2021.
- The credit amount for paid leave is increased to $12,000 per employee (up from $10,000).
- Leave counts for paid sick leave reset on April 1, 2021.
- Access the IRS FAQs.

HR133, Consolidated Appropriations Act of 2021
Passed by Congress on December 21, 2020, clubs benefit from an expansion of the Employee Retention Tax Credit.

Expanded Employee Retention Tax Credit
- The refundable payroll tax credit has been increased to 70 percent (up from 50 percent) of wages paid by clubs to employees during the COVID-19 crisis.
COVID-19 Federal Stimulus (cont.)

March 15, 2021

The credit is based on qualified wages paid to the employee, provided for the first $10,000 of compensation per “any calendar” quarter, including health benefits, paid to an eligible employee. The maximum benefit is now $7,000 per employee per quarter.

Eligibility is also expanded to employers, including clubs whose gross receipts were less than 80 percent (up from 50 percent) of the gross receipts of such employer for the same calendar quarter in 2019.

Adjustments are effective beginning January 1, 2021, and are not retroactive. The credit is now extended to wages paid through July 1, 2021.

Paid Sick & Family Leave Tax Credits Extended

Established as part of the HR6201, private sector employers with fewer than 500 workers are required to provide emergency paid family leave or COVID-19 related sick leave. (See page 1)

In a December 31 memo, the Department of Labor clarified the expiration of the paid sick and family leave mandates. An employer is no longer required to provide FFCRA leave after December 31, 2020, but may voluntarily decide to provide such leave.

The corresponding refundable tax credits can be used by clubs to cover wages paid to employees for COVID-related paid family and sick leave. Set to expire December 31, 2020, they can now be used through March 31, 2021.

PPP: Simplified Forgiveness and Clarification of Tax Liability

While this legislation does not extend the eligibility for the Payroll Protection Program (PPP) to 501(c)(7) social clubs, it does offer more resources for Economic Injury Disaster Loans (EIDL), simplify the PPP forgiveness process, allow for coverage of personal protective equipment expenses, and enable a second round of PPP loans for qualifying entities.

It also provided further clarification regarding the tax treatment of PPP loans, stating that forgiveness should not be reported in gross income and does not negate deductions for otherwise deductible expenses paid through a PPP loan.

HR 748, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

HR 748, the CARES Act was signed into law on March 27, 2020. This is the third measure to address the impact of COVID-19. Clubs can take advantage of two tax credits in CARES, the Employee Retention Tax Credit and Payroll Tax Credit.

Payroll Protection Loans

Within the bill, 501(c)(7) clubs were excluded from eligibility for Payroll Protection Program (PPP) loans from the Small Business Administration (SBA). These loans of up to $10 million would help maintain operations (payroll, mortgage, rent, utilities, and certain debt payments).

Further, in the Interim Final Rule guidance released on April 2, “private clubs and businesses which limit the number of memberships for reasons other than capacity” are deemed ineligible.

Economic Injury Disaster Loans (EIDL)

Pending the issuance of an Interim Final Rule, clubs may be eligible to apply for Economic Injury Disaster Loans (EIDL) and a loan advance of up to $10,000. The $10,000 loan advance will provide economic relief to businesses that are currently experiencing a temporary loss of revenue. This loan advance will not have to be repaid. Learn more.

Employee Retention Tax Credit

Provides a refundable payroll tax credit for 50 percent of wages paid by clubs to employees during the COVID-19 crisis.

Available to employers, including clubs whose:

- operations were fully or partially suspended, due to a COVID-19-related shutdown order, or
- gross receipts declined by more than 50 percent when compared to the same quarter in the prior year.

For employers with greater than 100 full-time employees, qualified wages are wages paid to employees when they are not providing services due to the COVID-19-related circumstances described above.

For eligible employers with 100 or fewer full-time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order.

The credit is based on qualified wages paid to the employee and is provided for the first $10,000 of compensation, including health benefits, paid to an eligible employee – maximum benefit is $5,000 per employee.

The credit is provided for wages paid or incurred from March 13 through December 31, 2020.
Payroll Tax Credit (Deferral)
Allows clubs to defer payment of the employer share of the Social Security tax they otherwise are responsible for paying to the federal government with respect to their employees.
- Eligible wages for March 27 through December 31, 2020
- Employers generally are responsible for paying a 6.2% Social Security tax on employee wages.
- Deferred employment tax must be paid over the following two years, with half of the amount required to be paid by December 31, 2021 and the other half by December 31, 2022.

No Double Dipping Restriction
The CARES Act prohibits double-dipping; employers may not access SBA loans if they opt for the employee retention tax credit or the payroll tax deferral.

Resources
IRS Guidance on Employer Retention Tax Credit
IRS FAQs on Employer Retention Tax
Form 7200

HR6201, the Families First Coronavirus Response Act (FFCRA)
HR 6201, the FFCRA, was signed into law on March 18, 2020. This is the second measure to address the impact of COVID-19.

Mandated Paid Leave
- Private sector employers with fewer than 500 workers would have to provide as many as 12 weeks of partially paid family leave under the Family Medical Leave Act (FMLA) to care for a child whose school or day care has closed.
- Job protection (except for employers with fewer than 25 workers) – equivalent position
- First 10 days could be unpaid, though a worker could elect to use accrued vacation leave for unpaid time off.
- Following initial 10-day period, workers would receive two-thirds of normal pay rate, capped at $200 per day or $10,000 total.
- Expires December 31, 2020

Mandated Sick Leave
- Private sector employers with fewer than 500 workers would have to provide paid sick time to:
  1. Comply with quarantine/isolation order
  2. Self-quarantine per doctor’s advice
  3. Obtain medical diagnosis for CV
  4. Care for individual in quarantine
  5. Care for a child whose school/day care has closed due to CV
- FT Employees would receive 80 hours of sick leave
- PT Employees equivalent to normal work hours in 2-week period
- Paid at normal wage but limitations are:
  - For worker’s quarantine/diagnosis, cap is $511 per day or $5,110 maximum
  - For caregivers, cap is $200 per day or $2,000 maximum
- Employer cannot require use of other leave first and leave does not carry over

Tax Credits for Mandated Paid and Sick Leave
Clubs qualify to use the credits for paid and sick leave as mandated:
- Effective on April 1, 2020, and apply to leave taken between April 1 and December 31, 2020.
- Refundable tax credits to cover wages paid to employees for sick or paid leave
- Credits against employer’s payroll tax payments
- Beyond wage limits, amounts would be increased to include employer payouts for health plan coverage
- Wages paid wouldn’t be subject to employer payroll tax, credits would be increased to cover 1.45% Medicare tax
- Credit would be included in gross income
- Effective through December 31, 2020

Resources
Access FAQs from Department of Labor regarding implementation for your employees.
Review FAQs and detailed guidance from the Internal Revenue Service on how to take advantage of the credits.

Make sure to share the required DOL Required Poster for FFCRA Paid and Sick Leave with your team!

CMAA has worked to ensure that all information in this report is accurate as of the publication date and is consistent with good industry practices. It is recommended, however, that readers evaluate the applicability of this information considering their work conditions, particular situations, and changing standards. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional services. If legal advice or other expert assistance is required, the services of a competent professional should be sought.