CLIENT ALERTS & INSIGHTS

Key Provisions for Employers in the Consolidated Appropriations Act

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Late on December 21, 2020, Congress passed a $900 billion pandemic relief package (referred to herein as the "Act"), which extends and modifies several provisions of the Coronavirus Aid, Relief, and Economic Security Act (also known as the "CARES Act") enacted in March 2020. President Trump signed the Act into law on December 27, 2020. As with the CARES Act, this Act covers a wide range of subjects, including payments to individuals and families depending on income, expanded unemployment benefits, and a number of employment, tax, and commercial provisions impacting business. This summary highlights provisions of the Act affecting employers and employee benefits.

Extended Unemployment Benefits

The Act revives the Federal Pandemic Unemployment Compensation (the "extra $600" from the CARES Act) but sets the amount at $300 for those eligible to receive state unemployment benefits from December 26, 2020 through March 14, 2021. The Act does not fill in the gap between when the $600 benefit from the CARES Act ran out (July 31, 2020) and the start of eligibility for the new $300 benefit (December 26, 2020). The legislation also extends employment benefits to self-employed individuals, gig workers and those who have exhausted their state benefits. Workers with at least $5,000 in self-employment income may be eligible for an additional $100 per week benefit as part of the Mixed Earner Unemployment Compensation to adjust for a lower unemployment base payment.

Additionally, the Act extends the Pandemic Unemployment Assistance and Pandemic Emergency Unemployment Compensation programs, which expanded jobless benefits eligibility and allowed people to continue to receive payments after their state assistance ran out. The Act extends both programs through April 5, 2021. Specifically, the Act revises the CARES Act to extend the Pandemic Unemployment Assistance from 39 weeks to 50 weeks, and adds more stringent documentation requirements to confirm initial and continuing eligibility to receive this assistance. Individuals receiving benefits beyond the standard 26-week period as of March 14th will continue receiving them through April 5th if they have not reached their maximum number of benefit weeks.

The Act also requires states to enact methods to address circumstances where claimants of unemployment compensation refuse to return to work or refuse to accept an offer of suitable work without good cause. Effective 30 days after its enactment, the Act requires states to:

- Sanction a reporting method for employers to notify the state when an individual refuses an offer of employment.

- Issue a plain language notice to such claimants about state return to work laws, rights to refuse to return to work or to refuse suitable work and information on contesting a denial of a claim, as well as what constitutes suitable work, including a claimant's right to refuse work that poses a risk to the claimant's health and safety.

Finally, the Act includes protections for individuals who received pandemic-related unemployment benefit overpayments through no fault of their own and are now unable to repay the funds.

Modifications to Families First Coronavirus Response Act (FFCRA)

The FFCRA promulgated two types of emergency paid leave for U.S. workers at employers with fewer than 500 employees: sick leave and family and medical leave. The Act extends the employer tax credits for both the paid sick leave and emergency paid family and medical leave through March 31, 2021. However, the parts of the FFCRA mandating that employers provide this paid leave are not extended. In other words, on January 1, 2021 employers are no longer required to provide FFCRA leave. If employers choose to provide this leave pursuant to the terms of the FFCRA, the Act provides that these employers can continue to get the federal tax credit for leave through March 31, 2021.

Key Takeaways

This stimulus package sends immediate aid to individuals and businesses. While the Act is roughly half the size of the CARES Act, it is one of the largest relief packages in U.S. history. Comments from President-Elect Biden suggest that his administration will push for further stimulus bills.

For a discussion of the provisions impacting employers in the CARES Act, click here.

For more information, please contact your Benesch representative.

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Please note that this information is current as of the date of this Client Alert, based on the available data. However, because COVID-19's status and updates related to the same are ongoing, we recommend real-time review of guidance distributed by the CDC and local officials.

