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## Employer Paid COBRA Subsidies

The American Recovery and Reinvestment Act ("ARRA"), which was signed into law on February 17, 2009, contains provisions related to the Consolidated Omnibus Budget Reconciliation Act's ("COBRA") continuation for employees who have been or will be involuntarily terminated from employment between September 1, 2008 and December 31, 2009. The ARRA provides a subsidy for health insurance continuation coverage for any employee or dependent that loses coverage during the above period. Involuntary termination is defined as "a severance from employment due to the employer's unilateral authority to terminate." *For most individuals, coverage would begin on March 1, 2009 and forward, as this is the first coverage period after the date of enactment of ARRA. The COBRA subsidy does not apply to group health plans sponsored by employers with less than 20 employees.*

The COBRA premium assistance allows those effected to pay 35% of their COBRA medical insurance premium. Under ARRA, the other 65% is paid by the employer who is then entitled to a credit for the 65% on their payroll tax returns. Individuals automatically qualify if they are entitled to COBRA as a result of the involuntary termination. The premium assistance is for nine months.

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### Effective Dates

The premium assistance applies until the earliest of (1) the first date the assistance eligible individual becomes eligible for other group health plan coverage (with certain exceptions) or Medicare coverage; (2) the date that is nine months after the first day of the first month for which the ARRA premium reduction provisions apply to the individual; or (3) the date the individual ceases to be eligible for COBRA continuation coverage.

For those individuals involuntarily terminated between September 1, 2008 and February 17, 2009, coverage would begin on March 1, 2009. They may automatically elect the 35% premium assistance for periods beginning March 1, 2009. The premium assistance is not retroactive. Also, individuals who previously did not elect COBRA coverage may now elect it if they were terminated during this period. However, it does not extend the original COBRA coverage period.

### Employers' Responsibilities

Businesses are required to notify all involuntarily terminated employees of the premium assistance as part of the COBRA coverage notification. The notification should explain the eligibility and payment information along with the eligibility period. Model notice information is available on the Department of Labor Web site ([www.dol.gov](http://www.dol.gov)).

The employer's ARRA 65% credit is claimed on Form 941-Employer's Federal Quarterly Tax Return, and credit can only be claimed after payment is received from the former employee. Employers can reduce payroll tax deposits for credits to be taken.

### Employee's Responsibilities

The COBRA premium assistance to the effected individual is not taxable as additional income. However, individuals with a modified adjusted gross income between \$125,000 and \$145,000 (\$250,000 and \$290,000 married filing joint) must repay a portion of the subsidy. If the modified adjusted gross income exceeds the \$145,000 and \$290,000 amounts, the subsidy must be repaid in full. Repayments are treated as an additional tax on the individual's tax return. A high income individual may elect to waive COBRA premium assistance in these situations.

### Additional Resources

The IRS website ([www.irs.gov](http://www.irs.gov)) contains many Frequently Asked Questions on the assistance program. At the search panel, type "COBRA Subsidy". *As previously mentioned, the Department of Labor Web site ([www.dol.gov](http://www.dol.gov)) contains additional information.*

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