

Maximize Business Benefits of the HIRE Act

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Many times, tax legislation is structured to promote or discourage behaviors. In an effort to provide employers with incentives to increase employment and get unemployed citizens back to work, Congress passed and President Obama signed the Hire Incentives to Restore Employment (HIRE) Act (HR 2847) on March 18, 2010. Multiple incentives were provided within the Act, and three such incentives will be discussed below, including payroll tax forgiveness for hiring unemployed workers, business credit for retention of certain newly hired individuals, and an increase in expensing of certain depreciable business assets.

Payroll Tax Forgiveness

In an effort to stimulate the economy, the HIRE Act allows for payroll tax forgiveness for employers hiring qualified employees after February 3, 2010 and

before January 1, 2011. Payroll tax forgiveness relieves employers from the 6.2 percent share of Social Security tax on wages paid up to \$106,800 of Social Security wage-base to qualified employees from March 19, 2010 through December 31, 2010. However, the employees remain responsible for their portion of Social Security taxes and income tax, and the employer remains responsible for Medicare payroll taxes. The payroll tax forgiveness reduction will have no effect on the employee's future Social Security benefits.

Qualified Employers

A qualified employer is any U.S. taxable business or tax exempt organization. The definition includes U.S. possession businesses (Puerto Rico or Northern Mariana Islands) that are subject to Social Security tax. In general, federal, state, and local government, and household employers do not qualify for these benefits.

Qualified Employees

A qualified employee is an individual who:

- begins employment with a qualified employer after February 3, 2010 and before January 1, 2011;
- has been unemployed, or employed for less than 40 hours during the 60-day period ending on the date employment begins;
- is not employed to replace another employee, unless the other employee separated from employment voluntarily or for cause, and;
- is not a family member or related in other certain manners to the employer.

The newly hired qualified employee must certify by a signed affidavit, under penalties of perjury that he or she has been unemployed, or has been employed less than 40 hours during the 60-day period ending on the date employment begins. Form W-11 may be used to effect the confirmation that the employee is a qualified employee. The completed Form W-11 should be retained by the employer with other payroll tax records.

For wages paid after March 19, 2010, the payroll tax exemption may be claimed utilizing Form 941. This exemption may not be claimed on Form 941 for the first quarter of 2010. However, employers may claim the exemption for wages paid to qualified employees for the first quarter of 2010 (March 19, 2010 through March 31, 2010) along with the employer's second quarter Form 941. The IRS is in the process of revising Form 941 to incorporate the exemption. We expect they will also revise Form 943 for Farm Employees before the end of the year.

The payroll tax exemption may apply if an employer lays off employees due to lack of work, and then rehires the employees or hires new employees when workloads increase, provided the hired or rehired employees satisfy the definition of a qualified employee. This is increasingly important with agricultural businesses. Further, if a business is new in 2010, and hires all new employees, the payroll tax exemption may apply if the newly hired employees satisfy the definition of qualified employees.

Business Credit for Retention of Newly Hired Individuals

In addition to the payroll tax forgiveness, employers may be eligible for a business credit for the retention of newly hired employees. These individuals would be qualified employees, as defined above, and retained for a year (consecutive 52-week period). The credit is the lower of \$1,000 per worker or 6.2 percent of the retained employee's wages for a 52-week period. Wages for the last two weeks of the 52-week period must be at least 80 percent of the qualified retained workers wages from the first 26 weeks. The credit will be available to be claimed in 2011. In general, credits provide dollar-for-dollar reductions in income tax.

Increase Expensing of Qualifying Depreciable Assets

Another benefit for businesses provided in the HIRE Act is the increased amount of qualified depreciable assets which can be expensed in the year the assets are placed in service. Under the Hire Act, a business may elect to recover all or a part of qualifying depreciable asset costs by deducting up to \$250,000 in 2010. The maximum qualifying property a business may have placed in service in 2010 to be eligible for the \$250,000 expense election is \$800,000. The HIRE Act also includes off-the-shelf software in the definition of section 179 qualifying depreciable property for 2010.

Summary

The HIRE Act provides some great incentives and benefits for employers and businesses. During the planning of operations for 2010, businesses should consider the HIRE Act incentives to insure your business is maximizing your benefit. As Doug Shulman, IRS Commissioner said, "These tax breaks offer a much needed boost to employers willing to expand their payrolls, and businesses and nonprofits should keep these benefits in mind as they plan for the year ahead." **CG**



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