

ALERT

‘HIRE’ Act Signed Into Law Designed to Provide Hiring Incentives for Employers, Reduce Unemployment and Stimulate the Economy

By Bennett Pine

Employers should be aware of recently enacted significant tax breaks designed to promote job growth as the nation’s economy continues to recover from the recession. In an effort to reduce unemployment and further stimulate the economy, the Hiring Incentives to Restore Employment (HIRE) Act was signed into law by President Obama on March 18, 2010. The HIRE Act provides employers with a Social Security payroll tax exemption for employees hired between February 3, 2010, and January 1, 2011, provides business tax credits for retaining the workers and contains additional provisions designed to stimulate the economy.

Payroll Tax Exemption ‘Holiday’ For New Hires

The HIRE Act’s centerpiece is a tax break for private sector employers estimated at \$13 billion. Under the HIRE Act, a qualified employer’s 6.2 percent Old Age, Survivors and Disability insurance Social Security (FICA) tax liability is forgiven for qualified employees who commence work any time after February 3, 2010, and before January 1, 2011. This exemption applies to individual employees who affirm that they were unemployed or were employed for a period of 40 hours or less during the 60-day period prior to the commencement of employment. A form on which employees can make the required statement is available from the IRS.

Based upon the FICA wage cap of \$106,800, the maximum value of this tax forgiveness incentive per qualified employee is \$6,621. It should also be noted that there is no tax exemption or “vacation” from the employer’s 1.45% Medicare Hospital Insurance portion of the FICA tax or other federal or state unemployment or payroll taxes that would still apply.

Tax Credit For Employee Retention

In addition to the FICA payroll tax exemption, the HIRE Act provides a business tax credit for each employee who becomes employed under HIRE and who remains employed for at least 52 weeks. The tax credit to the qualified employer would be equal to the lesser of \$1,000 or 6.2% of the wage paid to the new employee during the 52 consecutive week

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period. Individuals employed for less than the 52-week period are not eligible for the tax credit.

Upon passage of the law, IRS Commissioner Douglas Shulman stated, "These tax breaks offer a much needed boost to employers willing to expand their payrolls and businesses and non-profits should keep these benefits in mind as they plan for the year ahead."

Who Is and Is Not Eligible for the Incentive

The tax benefits described above apply to all profit and tax-exempt non-governmental (except public colleges and universities), businesses that are adding positions to their payrolls, including agricultural employers. Household employees, new employees related to the employer or shareholders owning more than 50 percent of the business are not eligible for the benefits.

Individuals who were employed *more* than 40 hours during the 60-day period prior to commencing employment or who are hired to replace another employee (unless that employee voluntarily quit or was terminated for cause) also do not qualify for the HIRE incentives.

Additional Provisions

Code Sec. 179 Expensing: The HIRE Act extends enhanced Code Sec. 179 expensing threshold levels through December 31, 2010. This extension means that the previous limits of \$125,000 with a \$500,000 cap will remain increased to \$250,000 with an \$800,000 cap through the end of the calendar year. Code Sec. 179 expensing, unlike bonus depreciation, is available on both new and used property.

Build America Bonds: The HIRE Act alters Build American Bonds, originally part of the American Recovery and Reinvestment Act of 2009 (ARRA), slightly to increase consumer interest. Subsidies will now be available through both a refundable tax credit and a direct payment equal to the amount of that credit.

Conclusion

Employers are encouraged to develop coordinated efforts among their human resources, payroll, benefits, financial and/or tax functions to track all employment vacancies and new hiring activity and to determine whether they are eligible to take advantage of the valuable tax benefits of the HIRE Act. ▲

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