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New Hiring And Retention Incentives For Employers

On March 18, 2010, President Obama signed the new Hiring Incentives to Restore Employment Act (HIRE) into law. This federal legislation creates brand-new tax breaks for hiring and retaining unemployed workers, extends the enhanced business equipment deduction that was available last year, and reinforces the "Build America Bond" program. Here's a quick rundown on these three key tax breaks:

1. Employers Get a Payroll Tax Holiday for New Hires - Plus a Potential Tax Credit Bonus.
Notes: A qualified employee may be either a full-time employee or a part-time employee. There is no minimum requirement for the hours worked. The payroll tax forgiveness does not apply to the 1.45 percent Medicare portion of payroll tax. And household employers (for example, hiring nannies) cannot claim the new tax benefit

The exemption officially begins with wages paid in the second calendar quarter of 2010. Employers entitled to tax relief for the first quarter will be credited against their general Social Security liability for the second quarter.

Another tax credit bonus: In addition to the payroll tax forgiveness, an employer can claim a tax credit if it retains a qualified worker for a minimum of 52 consecutive weeks. The credit is equal to the lesser of: $1,000 or 6.2 percent of the employee's wages paid during the 52-week period. If the employee quits or is fired before the end of the one-year period, no credit is allowed.

The new law requires that employers get statements from each eligible new hire certifying that he or she was unemployed during the 60 days before beginning work or, alternatively, worked fewer than a total of 40 hours for someone else during the period. The IRS is currently developing a form employees can use to make the required statement.

Consult with your tax adviser to determine if these tax breaks make it advantageous for your business to hire new employees now and to ensure you comply with the documentation rules to qualify.

Continued below. . .

Who Pays for the New Tax Breaks?

The tax benefits in the new HIRE Act are mainly offset by a package of foreign tax compliance rules. Among other provisions, the law:

- Imposes 30 percent tax withholding on payments to foreign banks and trusts that fail to identify U.S. accounts and their owners and assets to the IRS; or foreign corporations that do not supply the name, address, and tax identification number of any U.S. individual with at least 10 percent ownership in the firm.
- Imposes penalties of up to $50,000 on U.S. taxpayers who have at least $50,000 in offshore accounts or assets, but fail to report the accounts on their annual income tax returns.
- Assesses a 40 percent penalty on the amount of any understatement attributed to undisclosed foreign assets.
- Extends the statute of limitations to six years for "substantial" omissions derived from offshore assets.
- Requires shareholders in passive foreign investment companies to file annual returns.
- Establishes a $10,000 minimum failure-to-file penalty for certain foreign-trust related information returns.
- To further help pay for the new tax breaks, the new law also delays (until 2021) application of the worldwide interest allocation rules and accelerates certain corporate estimated tax payments.

2. The Super Deduction for Purchasing Business Equipment Has Been Extended. Section 179 of the Internal Revenue Code allows an employer to "expense," or currently deduct, qualified business assets placed in service during the year, up to a specified maximum. So instead of depreciating equipment over several years, you can write off the entire cost in one year if you qualify and make this election. The maximum deduction is phased out on a dollar-for-dollar basis for the cost of assets exceeding a threshold amount.

Under an earlier stimulus law, the maximum Section 179 deduction allowed for 2009 was $250,000, while the phase-out threshold was set at $800,000. Without an extension, the Section 179 deduction for 2010 had reverted to $134,000 and the phase-out threshold was $530,000. Now the new law preserves the higher limits for qualified assets placed in service in tax years beginning in 2010.

Notes: *The HIRE Act does not extend the "bonus depreciation" tax break that was also available for business equipment purchases in 2009. However, it does continue to allow businesses to currently deduct the cost of off-the-shelf software placed in service in 2010.*

3. Tax Credit Bonds Are Made More Attractive. Under the American Recovery and Reinvestment Act of 2009, state and local governments were authorized to issue "Build America Bonds." These bonds have proven to be popular among institutional investors, such as municipal bond funds. To increase participation in this program, the HIRE Act allows issuers of qualified tax credit bonds to elect to receive direct payment from the federal government in an amount equal to the allowable tax credit. The tax credit bonds include new renewable energy bonds, qualified energy conservation bonds, qualified zone academy bonds and qualified school construction bonds.

What is NOT Included in the Legislation?

The HIRE Act does not include a number of tax breaks that people are waiting for and Congress continues to discuss. We are likely to see new legislation this year that covers the extension of several tax breaks that technically expired after 2009, such as the Research Tax Credit, the higher education tuition deduction, the state and local sales tax write-off and a variety of other business and individual tax breaks.

Similarly, the law did not provide alternative minimum tax (AMT) relief or any revision of the estate and gift tax laws. However, these issues are addressed in other legislative proposals that are currently working their way through Congress. Stay tuned. We'll tell you about additional tax changes as soon as they pass.

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