

WILL THE HIRE ACT BENEFIT YOUR BUSINESS?

On March 18, President Obama signed into law the Hiring Incentives to Restore Employment (HIRE) Act. The act provides tax incentives that are targeted to help many companies hire more workers and purchase more equipment — and, ultimately, grow their businesses as the economy recovers. Here's an overview of the act that will help you determine whether your business might benefit.

HIRING INCENTIVES

At the heart of the HIRE act, as indicated by its title, are two provisions designed to reduce unemployment by encouraging businesses to hire unemployed workers — and to retain them:

1. PAYROLL TAX FORGIVENESS

This essentially exempts qualified employers (generally employers other than government entities) from having to pay the 6.2% Social Security portion of Federal Insurance Contribution Act (FICA) taxes on certain new hires through the end of the year. To qualify, a worker must be hired after Feb. 3, 2010, and before Jan. 1, 2011, and must have been unemployed (defined as not having worked more than 40 hours) for the 60-day period ending on his or her start date.

Because wages in excess of \$106,800 aren't subject to the Social Security payroll tax, the maximum value of the break per employee is \$6,621.60. In many cases, the wages will be lower and, thus, the value of the break will be lower. Employers also need to keep in mind that payroll tax paid is a deductible expense, so some of the savings from the tax forgiveness will be offset by the reduction in deductible expenses.

Here are a few other important considerations related to payroll tax forgiveness:

- The new hire doesn't have to be a full-time employee. In fact, there's no minimum hour requirement.
- The new hire can't take the place of an existing employee unless that employee is terminated for cause or leaves voluntarily.
- The new hire can be an employee who was previously laid off by the employer.
- The new hire can't be related to the employer or own (directly or indirectly) more than 50% of the business.

Also be aware that employers generally can't take both payroll tax forgiveness and the Work Opportunity credit for the same employee for the same year. Employers can, however, elect to pay the Social Security tax so that they can take the credit if, for example, the credit would provide a greater tax benefit.

2. RETENTION CREDIT

This credit applies to workers who qualify for payroll tax forgiveness if they are retained for 52 consecutive weeks. The tax savings per qualified retained worker are equal to the lesser of 6.2% of the wages paid to the worker in 2010 or \$1,000.

Here are a few other important considerations related to the retention credit:

- During the last 26 weeks of the 52-week period, the worker must be paid wages equal to at least 80% of what he or she was paid during the first 26 weeks.
- No partial credit is available if the worker leaves before the end of the 52-week period — even if the departure is voluntary.
- Because of the 52-week requirement, employers generally won't enjoy the benefit from this credit until they file their 2011 tax returns.

Additional rules apply to both of these breaks, so please contact us to determine whether and to what extent your business can benefit.

ASSET ACQUISITION INCENTIVES

To spur additional investment, the HIRE act extends the increase in the Section 179 limit for initial year expensing to \$250,000 (from \$134,000). The Sec. 179 expensing election allows a current deduction for newly acquired assets that otherwise would have to be depreciated over a number of years.

Because this tax break is designed to benefit primarily smaller businesses, the expensing election begins to phase out dollar for dollar when total asset acquisitions for the tax year exceed \$800,000 (up from \$530,000). So, for example, if your asset purchases equal or exceed \$1.05 million for the year, the election would be fully phased out.

The higher limits apply for calendar year 2010 or a business's fiscal year that begins in 2010. A business can claim the expensing election only to offset its net income, not to reduce net income below zero.

Because the Sec. 179 limit increases can provide large 2010 deductions, if your business would qualify for this break, you may want to consider making major asset purchases this year.

It's important to note that the HIRE act does not extend the 50% bonus depreciation that was available in 2008 and 2009. So there's no additional tax incentive for companies whose asset purchases for the year exceed the Sec. 179 acquisition limit to make additional purchases, under the current tax structure.

OTHER PROVISIONS

The HIRE act includes additional provisions that may be of interest to you, such as:

- A new election to convert tax credit bonds to Build America Bonds,
- Extension of highway and transit programs through 2010,
- Strengthening of foreign account tax compliance, and
- Deferral of implementation of "worldwide allocation of interest" to 2020.

Various changes to estimated tax payment requirements for certain large corporations also were included in the act, but they don't go into effect until 2014 or later.

MORE CHANGES TO COME

The HIRE act may be just the first of a flurry of tax-related legislation. Upcoming bills may extend a variety of tax breaks that expired at the end of 2009, provide new breaks for small businesses, extend tax rates set to expire after 2010, and address the 2010 estate tax repeal and the estate tax increases scheduled for 2011.

With so many potential changes in store that could have a significant impact on your business — as well as on your personal financial situation — tax planning is especially important this year. We'll keep you apprised of important tax law changes as they occur.

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