



Hiring Incentives to Restore Employment Act (HIRE)

On March 18, President Obama signed the Hiring Incentives to Restore Employment (HIRE) Act (aka, the Jobs Bill), into law. The President's signature sets the effective date for the HIRE Act provisions as March 18, 2010, the date of enactment.

Below is an overview of the key tax changes affecting businesses as a result of the new law:

One year extension of enhanced small business expensing (Section 179).

The new law extends the enhanced expensing rules, which gives qualifying businesses the option to expense the cost of business machinery and equipment, furniture & fixtures, etc. instead of recovering it via depreciation over the assets' useful lives. For tax years beginning in 2010, the maximum amount that a business may expense is \$250,000, and the expensing election begins to phase out when a business buys more than \$800,000 of Section 179 eligible assets. These dollar limits are the same as those that were in effect for the 2008 and 2009 tax years.

Payroll tax exemption for employers who hire unemployed workers.

With a goal of stimulating the hiring of workers by the private sector, the HIRE Act exempts any private-sector employer that hires a worker who had been unemployed for at least 60 days from having to pay the employer's 6.2% share of the Social Security payroll tax on that employee for the remainder of 2010. A company could save a maximum of \$6,621 in payroll taxes if it hired an unemployed worker and paid that worker at least \$106,800—the maximum amount of wages subject to Social Security taxes—by the end of the year.

Additional credit of up to \$1,000 for employers who retain qualifying workers.

As an additional incentive, for any qualifying worker hired under this initiative that the employer keeps on payroll for a continuous 52 weeks, the employer is eligible for an additional non-refundable tax credit of up to \$1,000 after the 52-week threshold is reached. This must be taken on their 2011 tax return. In order to be eligible, the employee's pay in the second 26-week period must be at least 80% of the pay in the first 26-week period.

Workers hired after the date of introduction of the legislation (Feb. 3, 2010) are eligible for the payroll tax exemption and the retention credit, but only the wages paid after the date of the new law's enactment (March 18, 2010) qualify for the payroll tax exemption.

Here are some additional details on the new hiring incentive:

- The tax benefit of the new incentive is immediate. It increases a business' cash flow immediately, since the tax is not collected in the first place.
- The tax benefit generally applies only to private-sector employment, including nonprofit organizations. Public sector (government) jobs are generally not eligible for either benefit, although employment by a public higher education institution does qualify. The tax benefit does not apply to self employment taxes paid by self-employed individuals.
- There is no minimum amount of weekly hours that the new employee must work for the employer to be eligible, and there is no maximum on the dollar amount of payroll taxes per employer that may be forgiven.
- For workers that would otherwise be eligible for the "Work Opportunity Tax Credit," the employer must select one benefit or the other for 2010—no double dipping.
- An employer can't claim the new tax breaks for hiring family members.
- A worker who replaces another employee who performed the same job for the employer is not eligible for the benefit, unless the prior employee left the job voluntarily or for cause.
- For the hiring to qualify, the new hire must sign an affidavit, under penalties of perjury, stating that he or she has not been employed for more than 40 hours during the 60-day period ending on the date the employment begins.
- While the payroll tax holiday applies to wages paid from March 19 to March 31, 2010, from a mechanical perspective the reduction in payroll tax will not be reported on first quarter payroll tax returns. Rather, the amount by which the Social Security payroll tax would have been reduced under the payroll tax holiday provision during the first calendar quarter is applied against the tax imposed on the employer for the second calendar quarter of 2010.
- The credit for retaining qualifying new hires is the lesser of \$1,000 or 6.2% of the wages paid by the taxpayer to the retained worker during the 52-consecutive-week period.

Revenue offsets.

To pay for the tax incentives, the Act includes revenue offsets consisting of: (1) a comprehensive set of measures to reduce offshore noncompliance by giving IRS new administrative tools to detect, deter and discourage offshore tax abuses; and (2) a three-year delay (through 2020) of implementation of worldwide allocation of interest—a liberalized rule for allocating interest expense between U.S. sources and foreign sources for purposes of determining a taxpayer's foreign tax credit limitation.

If you would like more details about these or any other aspects of the new law, please do not hesitate to call your GBQ tax representative at (614) 221-1120.