

ALERT

President Signs HIRE Act; New Law Provides Hiring Incentives, Expensing Extension and More

On March 18, President Obama signed the Hiring Incentives to Restore Employment (HIRE) Act. The President's signature sets the effective date for numerous HIRE Act provisions with an effective date geared to the March 18, 2010, date of enactment. Significant provisions of the new law include:

Payroll tax holiday and up-to-\$1,000 credit for employers who hire unemployed workers. To help stimulate the hiring of workers by the private sector, the new law 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 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. 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, to 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 forgiveness and the retention bonus, but only wages paid after the date of the new law's enactment receive the exemption for payroll taxes.

Here are some additional features of the new hiring incentive:

- There is no minimum weekly number of 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 related parties.
- 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.

Extension of enhanced small business expensing (Section 179). The new law gives a one-year extension to enhanced expensing rules, which allow qualifying businesses the option to currently deduct the cost of business machinery and equipment, instead of recovering it via depreciation over a number of years. 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 expensing-eligible assets. These dollar limits are the same as those that were in effect for 2008 and 2009.

More tax law changes expected. The HIRE Act is the first of potentially several major bills coming out of the 111th congress this year. On March 10, the Senate approved the American Workers, State and Business relief Act of 2010 which includes over 50 extenders and an extension of the COBRA premium assistance subsidy. We also expect legislation to address the estate tax and soon-to-expire individual marginal tax rate cuts enacted in 2001.

We hope this information is helpful. If you would like more details about these provisions or any other aspect of the new law, please do not hesitate to call your LBA professional. Your payroll representative, if you utilize the services of a payroll company, can also assist you.

