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The Hiring Incentives to Restore Employment (HIRE) Act



On March 18, 2010, President Obama signed into law the Hiring Incentives to Restore Employment (HIRE) Act. The Act gives employers a temporary payroll tax exemption for qualifying new hires plus a tax credit for retaining new employees. The Act also temporarily extends increased Internal Revenue Code (IRC) Section 179 expensing limits.

Payroll tax exemption

Employers who hire a qualified new employee after February 3, 2010, will generally be exempt from paying the Social Security (Old Age, Survivors, and Disability Insurance, or "OASDI") portion of the FICA employment tax on wages paid to the individual after March 18, 2010, and before January 1, 2011. To qualify, the new employee must certify that he or she has not been employed for more than 40 hours during the 60-day period ending on his or her date of hire, and the new employee can't be hired to replace another employee (unless the other employee separated voluntarily, or was terminated for cause). Also, the new employee can't be related to the employer. Most employers are eligible--the payroll tax exemption generally applies to any employer other than the federal government, or state and local governments.

For wages paid prior to April 1, 2010, that would otherwise qualify for the payroll tax exemption, the tax benefit comes in the form of a second quarter credit--employers must pay the regular amount of Social Security tax on these wages, but the amount by which an employer's payroll tax would have been reduced is treated as a payment against tax in the second quarter of 2010.

Tax credit for retaining new hires

If an employer hires an individual who qualifies for the payroll tax exemption described above, continues to employ the individual for at least 52 consecutive weeks, and the individual's wages during the last 26 weeks of the 52-week period equal at least 80 percent of his or her wages during the first 26 weeks, the employer will qualify for an additional business tax credit. The credit is calculated individually for each qualifying employee, and is available for each employee in the taxable year in which the employee first satisfies the 52-consecutive-week employment period. The per-employee credit amount is equal to 6.2 percent of the wages paid to the employee during the 52-week period, up to a maximum of \$1,000.

IRC Section 179 expensing

The 2009 limits relating to IRC Section 179 expensing are extended for one year, to taxable years beginning in 2010. As in 2009, the maximum amount that a taxpayer may expense is \$250,000 of the cost of qualifying property placed in service for the taxable year. This amount is reduced by the amount by which the cost of qualifying property placed in service during the taxable year exceeds \$800,000.