

### HIRE ACT INTRODUCES SEVERAL NEW TAX INCENTIVES TO SPUR JOB GROWTH

On March 18, 2010, President Obama signed into law the Hiring Incentives to Restore Employment (HIRE) Act (HR 2847). The law includes several major tax provisions designed to promote job growth as the nation's economy continues to recover from recession.

#### HIRE NOW TAX CUT

The "Hire Now Tax Cut" provides \$13 billion in tax breaks to qualified employers both in the form of payroll forgiveness for Social Security taxes paid for qualified new hires, as well as a tax credit for keeping those employees on payroll for 52 consecutive weeks.

##### **Social Security Tax Forgiveness**

**Qualified Employer** – The HIRE Act defines a qualified employer as any non-governmental entity hiring in the U.S. Any federal, state or local government or instrumentality, except for state colleges and universities, do not qualify for the Act's tax forgiveness provisions. Any employer may choose to opt out of the forgiveness program.

**Qualified Employee** – The HIRE Act defines any previously unemployed individual, hired between February 3, 2010 and January 1, 2011, as a qualified employee. That individual must be able to show no more than 40 hours employment in the 60 days prior to hiring. That new hire cannot replace an employee unless that employee's departure was either voluntarily or for cause. Relatives of the employer, or shareholders owning more than 50 percent of the business, are not eligible.

The HIRE Act also includes a 6.2-percent Old Age, Survivors and Disability Insurance (OASDI) forgiveness, which applies to wages paid after February 3, 2010. This adjustment will not show in reporting until the second quarter of 2010 to give payroll departments and the Social Security Administration time to implement the program. Any amount applicable from February 3rd to the second calendar quarter of 2010 will be credited against that employer's second quarter statements.

This provision does not include any part-time or full-time hour requirements for the 6.2-percent employer contribution. The existing problem in misreporting "employees" versus "contractors" becomes further complicated under this definition as tax payments are only made for "employees." Forgiveness will apply to workers returning to the same place of business, if a factory reinstates a previously cut shift for example, provided they meet the 60-day/no-more-than-40-hours unemployment requirement.

### **Retained Worker Tax Credit**

Employers will be eligible for an additional tax credit for each qualified retained worker kept on the payroll for 52 consecutive weeks. That credit will come as an increase to the Code Sec. 38(b) credit by the lesser of \$1,000 or 6.2 percent of wages paid during the 52-week period.

**Qualified Retained Worker** – A new worker, as defined by the Social Security Tax Forgiveness program, kept on the payroll for 52 consecutive weeks might qualify as a retained worker. To ensure just pay, that worker must earn an amount equal to at least 80 percent of his/her first 26-week accumulated wage in his/her second 26 weeks.

Employers are able to claim the retained worker credit only if the full 52-week period is met. Should a worker spend 51 consecutive weeks in employment and then leave, the employer would not be eligible for any portion of the tax credit.

## **ADDITIONAL PROVISIONS**

### **Code Sec. 179 Expensing**

The HIRE Act extends enhanced Code Sec. 179 expensing threshold levels through December 31, 2010. This extension means that the previous limits of \$125,000 with a \$500,000 cap will remain increased to \$250,000 with an \$800,000 cap through the end of the calendar year. Code Sec. 179 expensing, unlike bonus depreciation, is available on both new and used property.

### **Build America Bonds**

The HIRE Act alters Build America Bonds, originally part of the American Recovery and Reinvestment Act of 2009 (ARRA), slightly to increase consumer interest. Subsidies will now be available through both a refundable tax credit and a direct payment equal to the amount of that credit.

## **OFFSET PROVISIONS**

The HIRE Act also contains provisions designed to offset the full cost of the tax incentives. These provisions include a delayed implementation of the worldwide allocation of interest rules as well as several measures to increase offshore tax compliance.

### **Tax Compliance for Foreign Accounts**

The HIRE Act contains increased compliance requirements for individuals holding foreign accounts. Foreign holding agents will now have to report the name, address and taxpayer ID number of all account holders or withhold 30 percent from certain payments.

Disclosure requirements will also intensify for individual account holders, who will need to specify the type, issuer, and maximum value for various holdings throughout the year. The Act also increases penalties for both the failure to disclose and the failure to pay in full.

## **Worldwide Interest Allocation**

The HIRE Act further delays the one-time election to determine the foreign source of taxable income of an affiliated group, known as the Worldwide Interest Allocation. The Act delays the tax break until tax years beginning after December 31, 2020.

## **CONCLUSION**

This short summary is by no means a comprehensive review of the new law. Look for more details in the months ahead about how these and other provisions of the HIRE Act may provide you and your business with considerable opportunities to maximize tax savings, or contact your local CB&H tax professional today to ensure that you and your business receive the maximum possible benefit of these provisions.

## **FOR MORE INFORMATION, PLEASE CONTACT:**

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