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Tax Benefits of the Hiring Incentives to Restore Employment Act

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Now is the time for all good countries to come to the aid of their unemployed, and the recent Hiring Incentives to Restore Employment (HIRE) Act does just that. Signed into law on March 18, 2010, the HIRE Act provides the following two direct incentives to employers who hire qualifying individuals who have worked 40 hours or less during the previous two months:

1. An immediate benefit is available in the form of a temporary exemption from the employer's half of Social Security payroll taxes through the end of 2010. An eligible employer can save the 6.2% tax on a new employee's wages paid after March 18, 2010, up to the 2010 wage base of \$106,800.
2. If the worker is employed continuously for a full year, the employer may also claim an income tax credit of up to \$1,000 for each retained employee.

A qualifying new employee is one hired after February 3, 2010, who also signs an affidavit (on new Form W-11 or a similar statement) that he or she has been employed for no more than 40 hours during the 60 day period immediately prior to the date of hire with the new employer. A recent graduate can qualify and does not need to have been in the workforce. However, a new employee will be ineligible if the employer is replacing another employee unless the other employee terminated voluntarily or for cause. Also ineligible are family members of either the employer or a 50% owner of the employer.

The additional income tax credit for retaining a new hire is calculated at 6.2% of the employee's wages paid during the requisite 52-week consecutive period, but with a maximum credit of \$1,000. The credit is available for use by the employer on its 2011 tax return and is added to any other allowable general business credit. An unused credit may be carried forward to future years, but no carrybacks are permitted. A further requirement of the retention credit is that the employee's wages during the second 26-week period must be no less than 80% of wages received in the first 26 weeks.

Eligible employers for these incentives include most businesses other than a governmental entity. Tax-exempt organizations and public colleges/universities qualify, while household employers do not. In the case of a new employee who is also a member of a targeted group which qualifies the employer for the work opportunity credit under prior law, the employer must choose between the work opportunity credit and the payroll tax forgiveness. The \$1,000 retention credit will still be available.

The HIRE Act incentives provide some welcome savings to businesses hiring the unemployed. As additional federal programs are debated, employers should also check on further incentives which may be available in their states. For example, the Illinois Small Business Job Creation Tax Credit provides a \$2,500 credit per new hire for certain small businesses that increase their full-time Illinois jobs from July 1, 2010 to July 1, 2011.

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