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## Business Tax changes in the 2010 HIRE Act

On March 18, 2010 President Obama signed H.R. 2847, carrying the Hiring Incentives to Restore Employment (HIRE) Act, into law. This news letter addresses the key tax changes affecting business in this recently enacted Act.

### Extension of enhanced small business expensing (Section 179).

The HIRE Act also gives a one-year extension of the enhanced expensing rules allowed under the section 179 of the Internal Revenue Code, which allow qualifying businesses the option to currently deduct the cost of business machinery and equipment, instead of recovering through depreciation deductions.

· 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.

### Payroll tax holiday and up-to-\$1,000 credit for employers who hire unemployed workers.

The act creates a payroll tax holiday and an up-to-\$1,000 credit for private sector, higher education institutions and nonprofit employers who hire unemployed workers.

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.

This means 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.

An employer that keeps a qualifying employee on payroll for a continuous 52 weeks will receive a non-refundable tax credit of up to \$1,000 after the 52-week threshold is reached, to be taken on their 2011 tax return. The credit is equal to the lesser of: 1) \$1,000 or 2) 6.2% of eligible wages. Thus, the credit will be the maximum of \$1,000 if the employee is paid at least \$16,130.

Only workers hired after Feb. 3, 2010 are qualifying employees for purposes of the payroll tax holiday and the retention credit.

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.

There are certain limitations and requirements attached to claiming the incentives. These include:

Employers are not able to claim both the payroll tax holiday and the Work Opportunity Credit (another credit available for wages paid to newly hired employees) for the same employee. In order to claim the Work Opportunity Credit the employer must elect out of the payroll tax holiday. This election may be made on an employee by employee basis.

The credits are not available for family members that are hired.

For the newly hired employee to qualify, he or she 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.

### **Direct payment option for certain tax credit bonds.**

State and local governments have the ability to issue special purpose tax credit bonds for school construction, energy conservation and renewable energy. The federal government subsidizes these tax credit bonds by providing investors in these bonds with a federal tax credit in place of interest that would otherwise be payable on the bond. In lieu of providing investors with federal tax credits, the new law allows issuers of qualified school construction bonds, qualified zone academy bonds, clean renewable energy bonds, and qualified energy conservation bonds to elect to receive a direct payment from the federal government equal to the amount of the federal tax credit that would otherwise be provided for these bonds.

### **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.

**Source:** CCH

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