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Tax Alert
RELEVANT ALERTS DIRECT TO YOUR INBOX

March 19, 2010

President Signs Hiring Incentives to Restore Employment (HIRE) Act

On March 18, 2010, the President signed legislation (H.R. 2847) into law that creates temporary tax incentives for hiring unemployed workers, retaining workers, extends the increased small business expensing limits under Section 179, and increases Foreign Account Compliance.

There are significant provisions, which are highlighted below.

Payroll Tax Holiday in 2010 for Hiring Unemployed Workers

The HIRE Act exempts employers from their share of the 6.2% Social Security Tax on wages paid to qualified individuals from March 19, 2010 to December 31, 2010. Qualified individuals are individuals that:

- Began employment after February 3, 2010 and before January 1, 2011;
- Certify by signed affidavit that they were employed for no more than 40 hours during the 60-day period ending on the date they begin the employment;
- Are not employed to replace another employee for reasons other than voluntary or for cause termination; and,
- Are not related to the employer.

Qualified employers do not include federal, state, or local government employers, but do include tax-exempt organizations, as long as the employee's services are made in furtherance of activities related to the organization's exempt purpose. A qualified employer also generally includes a public institution of higher education.

The payroll tax holiday applies only to the 6.2% Social Security portion of the employer's tax. It does not apply to the 1.45% Medicare portion of the employer's tax, nor to any part of the employee's tax. It also does not affect the self-employment tax paid by self-employed individuals.

Retention Credit

The HIRE Act also increases the general business credit by the lesser of $1,000 or 6.2% of the wages paid by the employer over 52 consecutive weeks for each qualified individual that qualifies for the payroll tax exemption and:

- Is employed on any date during the taxable year;
- Is employed for at least 52 weeks; and
- Is paid wages during the last 26 weeks of that 52-week period equal to at least 80 percent of wages for the first 26 weeks of the period.

Similar to other general business credits, the retention credit can be carried forward 20 years, but may not be carried back to a taxable year that begins before the date of enactment.

Extension of Section 179 Expensing Limit for Small Businesses

The HIRE Act extends to 2010 the Section 179 expensing limit of $250,000 and the phase-out threshold of $800,000 for small businesses.

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Build America Bonds

The HIRE Act allows issuers of the following tax credit bonds to elect the Build America Bond structure, which provides the bondholder a direct payment from the U.S. Treasury rather than a credit against federal income tax:

- Qualified School Construction Bonds
- Qualified Zone Academy Bonds
- Clean and Renewable Energy Bonds
- Qualified Energy Conservation Bonds

Foreign Account Compliance

The HIRE Act includes international reporting proposals first introduced by the Foreign Account Tax Compliance Act of 2009. The significant provisions are:

- A 30% withholding tax on income from U.S. financial assets held by foreign financial institutions unless certain reporting and disclosure requirements are made;
- A 30% withholding tax on any withholdable payment to a nonfinancial foreign entity if the beneficial owner of such a payment is a nonfinancial foreign entity that does not meet certain requirements;
- A 40% penalty for understatements attributable to an undisclosed foreign financial asset;
- A requirement for individuals to report offshore accounts or assets worth over $50,000 on their tax returns; and,
- An increase to the statue of limitations to 6 years for omissions on a tax return for items over $5,000 that is attributable to one or more foreign assets.

Worldwide Interest Allocation

The HIRE Act delays for three years the implementation of worldwide interest allocation rules. The rules were scheduled to take effect for tax years beginning after December 31, 2007.

Talk to Us

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