



Client Tax Alert 2010-03

This alert is to bring awareness of several new business incentives that have been introduced as part of the **2010 Hiring Incentives to Restore Employment (HIRE) Act** that was recently passed by Congress and signed into law by the President. These incentives include business-friendly tax provisions that may benefit you or your business considerably.

Payroll Tax Forgiveness

The 2010 Hire Act effectively exempts a **qualified employer** (any entity other than a governmental agency) from paying the 6.2% OASDI Social Security tax for wages paid for any **2010 period** beginning after March 18, 2010 (the date of enactment) through December 31, 2010, for new employees **if certain conditions** are met.

To qualify for the exemption, each employee must be a **"qualified individual"**. A qualified individual is an employee who:

1. begins work for a qualified employer after February 3, 2010, and before January 1, 2011,
2. has not been employed for more than 40 hours during the 60-day period ending on the date employment begins,
3. is not employed to replace another employee of the employer unless the other employee separated from employment voluntarily or for cause, and
4. cannot be related to the employer or own more than 50% of the business.

A qualified employer may elect not to apply the payroll tax forgiveness. A qualified employer **may not** claim the Work Opportunity Tax Credit (WOTC) on any wages if those wages were used by the employer for payroll tax forgiveness purposes.

Planning Point: When the newly hired employee qualifies for the WOTC and payroll tax forgiveness, the employer should analyze how to best optimize the usage of these two tax benefits, payroll tax forgiveness or the WOTC, to determine which would provide the best overall tax ramification.

Business Credit Increase for Retention of Newly Hired Individuals in 2010

The 2010 HIRE Act allows taxpayers to increase their business credit by the lesser of \$1,000 or 6.2% of wages for a 52-week period for **each** retained worker that satisfies a minimum employment period. A retained worker is defined as:

- a "Qualified Individual" for this purpose is the same as for the payroll tax forgiveness provision, which is discussed above.
- in addition, the worker must be employed by the employer for at least 52 consecutive weeks, and
- receive wages for the last 26 weeks of the 52-week period that are at least 80% of the wages paid

during the first 26 weeks.

This credit is effective beginning March 18, 2010 for newly employed persons thereafter, and cannot be carried back. Employers can claim both this credit and the result of optimizing the payroll tax forgiveness and the WOTC, as discussed in **Planning Point** above, regarding the same qualified employee.

Election to Expense Depreciable Business Assets

The Act extends the higher \$250,000 limit for small business expensing for another year. The ceiling limitation for total qualifying property placed in service remains at \$800,000.

Note that the expensing amount continues to be limited by the taxpayer's taxable income derived from the active conduct of the trade or business. Any amount that exceeds the taxable income limitation may be carried forward to succeeding taxable years.

Corporate Estimated Taxes

To help pay for the legislation, the Act increases the required corporate estimated tax payments for large corporations (those with assets exceeding \$1 billion) due in:

- July, August or September 2014 must be 157.75% of the payment otherwise required.
- July, August or September 2015 must be 121.5% of the payment otherwise required.
- July, August or September 2019 must be 106.5% of the payment otherwise required.

Please work with us and your payroll companies proactively to ensure that you complying with these new rules as soon as possible.

Please do not hesitate to contact Kurt A. Alter or Karin Vickers if you have any concerns about how any of the tax law changes would affect you.

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