Overview of 2010 HIRE Act

The recently enacted Hiring Incentives to Restore Employment (HIRE) Act includes a number of important changes affecting businesses.

Extension of enhanced small business expensing (Section 179). The new law gives a one-year lease on life to enhanced expensing rules, which allow qualifying businesses the option to currently deduct the cost of business machinery and equipment, instead of recovering it via depreciation over a number of years. 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. To help stimulate the hiring of workers by the private sector, 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. 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. As an additional incentive, for any qualifying worker hired under this initiative that the employer keeps on payroll for a continuous 52 weeks, the employer is eligible for an additional non-refundable tax credit of up to $1,000 after the 52-week threshold is reached, to be taken on their 2011 tax return. In order to be eligible, the employee's pay in the second 26-week period must be at least 80% of the pay in the first 26-week period.

Workers hired after the date of introduction of the legislation (Feb. 3, **2010**) are eligible for the payroll tax forgiveness and the retention bonus, but only wages paid after the date of the new law's enactment receive the exemption for payroll taxes.

Here are some additional features of the new hiring incentive:

- The tax benefit of the new incentive is immediate. It puts money into a business' cash flow immediately, since the tax is simply not collected in the first place.
- The tax benefit generally applies only to private-sector employment, including nonprofit organizations—public sector jobs are generally not eligible for either benefit. However, employment by a public higher education institution would qualify.
- 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.
- For workers that would otherwise be eligible for the “Work Opportunity Tax Credit,” the employer must select one benefit or the other for **2010**—no double dipping.
- An employer can't claim the new tax breaks for hiring family members.
- A worker who replaces another employee who performed the same job for the employer is not eligible for the benefit, unless the prior employee left the job voluntarily or for cause.
- For the hiring to qualify, the new hire 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.
- The incentive is not biased towards either low-wage or high-wage workers. Under the measure, a business saves 6.2% on both a $40,000 worker and a $90,000 worker.
- The payroll tax holiday does not apply with respect to wages paid during the first calendar quarter of **2010**, but the amount by which the Social Security payroll tax would have been reduced under the payroll tax holiday provision during the first calendar

quarter is applied against the tax imposed on the employer for the second calendar quarter of **2010**.

- The Act creates a similar new set of rules permitting a payroll tax holiday for railroad retirement tax purposes.
- The credit for retaining qualifying new hires is the lesser of $1,000 or 6.2% of the wages paid by the taxpayer to the retained worker during the 52-consecutive-week period. Thus, the credit for a retained worker will be $1,000 if, disregarding rounding, the retained worker's wages during the 52-consecutive-week period exceed $16,129.03. However, the credit is not available for pay not treated as wages under the Code (e.g., remuneration paid to domestic workers).

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

I hope this information is helpful. If you would like more details about these provisions or any other aspect of the new law, please do not hesitate to call.

Higgins & Smith
Certified Public Accountants