

Rosen Seymour Shapss Martin & Company LLP

Certified Public Accountants & Profitability Consultants

Tax Alert

Payroll Tax Holiday and Up-to-\$1,000 Credit for Companies Hiring Unemployed Workers in the 2010 HIRE Act

Dear Clients and Friends of the Firm:

The President signed into law on March 18, 2010 the "Hiring Incentives to Restore Employment Act of 2010" (the "2010 HIRE Act"), the centerpiece of which is a payroll tax holiday and up-to-\$1,000 tax credit for businesses that hire unemployed workers. Below is an overview of these new hiring incentives.

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. 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 on its 2011 tax return of up to \$1,000 after the 52-week threshold is reached. 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. A qualified worker presumably does not include a domestic employee.

Workers hired after the date of introduction of the legislation (February 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 businesses 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, nor is there a maximum 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 cannot 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 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, and
- The Act creates a similar new set of rules permitting a payroll tax holiday for railroad retirement tax purposes.

If you would like more details about any aspect of the 2010 Hire Act, please do not hesitate to contact us at (212) 303-1800 or email us at info@rssmcpa.com. Visit our website at www.rssmcpa.com.

Sincerely,

Rosen Seymour Shapss Martin & Company LLP

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