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Hiring Incentives to Restore Employment (HIRE) Act Offers Tax Incentives for Hiring

On March 18, 2010, President Obama signed into law the Hiring Incentives to Restore Employment Act (HIRE Act). The new law applies to private businesses, agricultural employers, tax-exempt organizations, and public colleges and universities hiring unemployed workers. The HIRE Act provides tax incentives to employers that hire unemployed workers and retain those workers for at least one year through a Social Security tax exemption and a business tax credit.

The HIRE Act's benefits are available to any employer that hires a qualified employee after February 3, 2010, and before January 1, 2011, to fill a newly-created position, or an existing position, that is available as a result of a voluntary resignation or discharge for cause. To qualify, employees must have been unemployed during the 60 days prior to beginning work, or have worked fewer than 40 hours during that 60-day period.

Importantly, to claim benefits under the HIRE Act, employers must obtain a statement from each newly-hired employee certifying that he or she was unemployed for 60 days before beginning work, or worked fewer than 40 hours during that period. The IRS is creating a form for employees to sign, which it will release in the coming weeks.

Social Security Tax Exemption

Under the HIRE Act's Social Security tax exemption, employers will be exempt from paying their 6.2 percent share of the 2010 Social Security taxes for any qualifying employee. The reduced withholding will not impact the employee's future Social Security benefits. Employers must still withhold income taxes

and the employee's 6.2 percent share of Social Security taxes. In addition, the HIRE Act does not impact any requirements regarding Medicare taxes.

Employers may claim the Social Security tax benefit on their federal employment tax returns, which employers generally file on a quarterly basis. Within the next few weeks, the IRS will issue revised employment tax forms that employers may use for the second quarter of 2010.

Business Tax Credit

In addition to the Social Security tax exemption, the HIRE Act provides employers with a general business tax credit of up to \$1,000 for every qualifying employee that the employer retains for at least one year. The employers may apply the business tax credit to their 2011 income tax returns.

What This Means to You

Employers who have hired employees since February 3, 2010, should survey those employees to determine whether they are qualified under the HIRE Act. Specifically, employers should gather information regarding whether a newly hired employee was either (1) unemployed for the 60-day period preceding his or her employment or (2) worked less than 40 hours during that period. Employers should obtain a statement from each qualifying employee using the IRS form that it will publish shortly.

Contact Info

If you have any questions about this or other employment matters, please contact your Husch Blackwell Sanders attorney.

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