

Tax Letter

HIRE Act (Hiring Incentives to Restore Employment Act)

The HIRE Act (H.R. 2847) was passed by the House on 6-18-09, and by the Senate on 11-5-09. It was signed by Obama into law (Public Law No. 111-147) on 3-18-2010. Why this **HIRE Act**, also known as the **JOB Bill**, took 4 months after it passed both the House and the Senate to become law (reasons, who knows) ???

Compare to the Health Care Reform law, this Job Bill consisted of about 48 pages of written material. The portion devoted to hiring and job creation was only less than 8 pages. The balance of the material was primarily designed for actions to enhance the Highway Trust Fund, certain Public Transportation Programs, etc., **most importantly**, to increase tax and to attack everything related to “foreign” subsidiaries, transactions, investments and of accounts. We would like to concentrate our attention to the name sake of this law – the HIRE Act or the Job Bill.

A. Special Payroll Tax Exemption for Hiring the Unemployed:

This special payroll tax exemption provision allows employers to claim an exemption from the employer’s 6.20% share of the social security tax on wages paid to qualified employees. **NOTE:** (1) The employee must continue to be withheld for his or her share of the 6.2% of the social security tax. (2) This exemption apply to social security tax only, it does not apply to medicare tax.

Qualified employees are unemployed persons hired on or after February 3, 2010 and on or before December 31, 2010 who had been unemployed for at least 60 days prior to be hired by the employer who wish to claim this social security tax exemption. To be unemployed for 60 days, the person must be out of any gainful employment either 100% or at most worked gainfully for a maximum 40 hours during the entire 60-day consecutive period.

To certify that the person hired by the employer was unemployed for at least 60 days, the IRS developed a new W-11 Form. At the time of hiring, the newly hired person must provide this W-11 Form, properly completed and signed under penalties of perjury, to the employer.

B. Business Tax Credit for retention of newly hired employees:

This is a general business tax credit to encourage retention of the new hires. The employer will be allowed to claim a tax credit for each employee: if (1) who is a qualified employee for purposes of claiming the Payroll Tax Exemption as stated in

“A” above, and remain employed by the employer for at least 52 consecutive weeks, and (2) the employee’s total gross pay for the second 26 consecutive weeks can not be less than a certain prescribed percentage or level of the first 26 consecutive weeks. This specific percentage or level will be prescribed by Department of Treasury or the IRS. [Update from IRS: **at least 80%**]

The maximum general business tax credit, a non refundable credit, will be the smaller of 6.20 % of the total qualified wages paid during the specific 52 consecutive weeks, or an amount equal to \$1,000 per qualified employee for that specific period.

C. An extension of the \$250,000 annual expense allowance for newly acquired, qualify business properties under IRC Section 179.

Next tax letter, we will make an attempt to cover the other portion of this Job Bill which was, in substance, an attack on taxpayers with foreign entities, subsidiaries, investments and/or accounts.

For the above discussion, any further questions or follow-up comments, please let us know by either give us a call at 415-381-0681 or send us a responding E-Mail.

Sincerely,

Cho F. Chan CPA, Inc.