

New Federal Tax Hiring Incentives for Employers

The Hiring Incentives to Restore Employment (HIRE) Act (H.R. 2847), signed by President Obama on March 18, 2010, gives employers two significant hiring incentives:

Payroll Tax Exemption. Beginning March 18, the HIRE Act exempts employers from paying their portion of Social Security tax (6.2 percent of wages) on qualified employees who start employment after February 3, 2010, and before January 1, 2011. The payroll tax exemption does not apply to the employer's portion of the Medicare tax (1.45 percent of wages).

A qualified employee is defined as someone that has not been employed for more than 40 hours during the 60 days prior to commencement of employment. In addition, the new employee cannot be related to the employer or replace another employee unless the other employee quit voluntarily or was terminated for cause.

A qualified employer includes any employer other than the federal government or any state or political subdivision thereof, with an exemption for postsecondary educational institutions. In other words, nontaxable entities such as not-for-profit organizations and state colleges and universities will also be able to take advantage of the payroll tax exemption.

Depending on an employee's wages, the exemption could save employers up to \$6,622 in payroll taxes (the FICA cap of \$106,800 x 6.2 percent) for each new hire. The employer would lose the corresponding income tax deduction for these payroll taxes and may not take the Work Opportunity Tax Credit (WOTC) on related wages, reducing the overall benefit. However, the employer may opt out of the payroll tax exemption and continue to take the WOTC.

Retained Worker Tax Credit. Employers that hire a qualified employee as defined in the Payroll Tax Exemption and keep that person employed for at least 52 consecutive weeks may be eligible for a tax credit. In order for the employer to claim the credit, the qualified employee's wages paid during the last 26 weeks of that period must be at least 80 percent of the wages paid during the first 26 weeks of the period. The tax credit is computed as the lesser of \$1,000 or 6.2 percent of wages during the 52-week period. This is in addition to the reduced payroll taxes for the employee. Since the qualification for the credit requires that the employee be employed for 52 weeks, this credit would be taken on the employer's 2011 federal income tax return. Unlike the Payroll Tax Exemption, the Retained Worker Tax Credit will not limit the amount of WOTC.

Benefits

Employers can recognize cash savings and cash flow for the Payroll Tax Exemption beginning in the second calendar quarter of 2010. The Payroll Tax Exemption benefits realized in the first calendar quarter will be credited to the payroll tax liability paid during the second calendar quarter. The Retained Worker Tax Credit may reduce federal income tax beginning in 2011.

Challenges

The immediate need is to address the administrative implications of screening and tracking qualified employees and coordinating with payroll tax filings in real time. Documentation for the Payroll Tax Exemption must include a signed affidavit, under penalties of perjury, that the new employee has not been employed for more than 40 hours during the prior 60-day period. Timing, documentation, and compliance are vital.

Moss Adams Software Tool

The Moss Adams State and Local Tax (SALT) Group has created a unique and easy-to-use Web-based tool that enables a client's employees to enter some personal information and answer a short set of questions to determine whether the employer qualifies for federal or state income tax credits or incentives. The online tool screens the employee for the Payroll Tax Exemption, Retained Worker Tax Credit and/or WOTC eligibility, documents the event, and calculates the Payroll Tax Exemption, the Retained Worker Tax Credit, and WOTC credit to help determine optimal benefit.

Experience Matters

The HIRE Act creates a unique opportunity to capture qualified new hires for these and other incentives. If you've hired or will be hiring new employees, please contact your Moss Adams tax professional or David Estrada.

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