



**SUMMARY OF TAX PROVISIONS OF  
THE HIRING INCENTIVES TO RESTORE EMPLOYMENT (HIRE) ACT  
THAT WILL AFFECT PRIVATE BUSINESSES**

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The Hiring Incentives to Restore Employment Act (otherwise known as the HIRE Act), is intended to provide hiring incentives to the private sector. This is accomplished through extending expensing rules (which allow businesses to expense the cost of machinery and equipment instead of depreciating the assets over their useful life), and providing tax credits/incentives for hiring new employees. These measures are summarized as follows -

**EXTENSION OF ENHANCED SMALL BUSINESS EXPENSING:** The new law extends enhanced expensing rules for one year, which allows 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:** HIRE 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.

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.

**\$1,000 CREDIT FOR EMPLOYERS WHO HIRE UNEMPLOYED WORKERS:** For each qualifying worker hired under HIRE 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.

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).

**GENERAL RULES:** 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.
- 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 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.

For further information, please contact:

James L. Parke  
650 S. Cherry St., Suite 1100  
Denver, CO 80246  
[jparke@minorbrown.com](mailto:jparke@minorbrown.com)  
303-320-1053  
[www.minorbrown.com](http://www.minorbrown.com)