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Tax benefits for hiring and retaining employees

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A new law provides immediate tax benefits to employers who hire new, previously unemployed workers, and also enhanced tax credits for employers who retain such newly hired workers. The new tax benefits are set forth in the Hiring Incentives to Restore Employment Act of 2010 (HIRE Act), which was signed into law by President Obama on March 18th.

The HIRE Act exempts employers from paying the employer share of Social Security employment taxes on wages paid in 2010 to certain newly hired workers. In order to qualify for this payroll tax holiday:

- *The new employee must begin employment after February 3rd, 2010 and before January 1st, 2012;
- *The new employee must certify by signed affidavit that he or she has not been employed for more than 40 hours during the 60-day period prior to being hired;
- *The new employee must not be a family member of the employer; and
- *The new employee must not be hired to replace another employee of the employer.

There is no minimum weekly number of hours that the new employee must work for the tax holiday to apply, and there is no limit on the number of employees that may qualify. The tax benefit to the employer is immediate, because the payroll tax simply is not collected.

If an employee also qualifies for the work opportunity tax credit (WOTC) (another employment tax credit), the employer must decide whether to utilize the payroll tax holiday or the WOTC for such employee - the employer may not take advantage of both benefits. In some instances the WOTC may be more valuable to the employer.

A second incentive under the HIRE Act provides that if an employer keeps a new employee on payroll for a continuous 52 weeks, the employer is eligible for an additional tax credit of up to \$1,000, to be taken on the 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.

In addition to these hiring incentives, the HIRE Act also contains provisions that encourage businesses to invest in machinery and equipment, and provisions that are designed to crack down on offshore noncompliance.

If you believe your business could benefit from the hiring or other incentives of the HIRE Act, contact your business or tax attorney for more information.

Kelly Guarino, associate at Lourie & Cutler, P.C., Boston, Mass.

New England Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540