



TAX ALERT

MARCH 31, 2010

THE HIRE ACT

The President recently signed into law the “Hiring Incentives to Restore Employment Act of 2010” (the HIRE Act). The most important provisions are as follows:

Payroll tax holiday and up-to-\$1,000 credit for employers who hire unemployed workers.

The new law exempts an employer from having to pay the employer’s 6.2% share of FICA on newly hired employee’s wages paid after March 18, 2010 for the remainder of 2010 if:

1. the new employee has been unemployed for at least 60 days,
2. the new employee has been hired after February 3, 2010,
3. the new employee is not a family member,
4. the new employee did not replace another employee who performed the same job unless the prior employee quit voluntarily or was fired for cause, and
5. the new employee signs an affidavit stating that he has not been employed for more than 40 hours during the 60-day period ending on the date the new employment begins.

In addition, if the new employee remains on the payroll for a continuous period of at least 52 weeks, the employer is eligible to claim an additional non-refundable tax credit of up to \$1,000 to be taken on its 2011 tax return.

The Hire Act is available on our Web site in greater detail.

Extension of enhanced small business expensing.

Generally, businesses have been able to immediately write off the cost of new machinery and equipment instead of being required to depreciate it over a period of years. The maximum amount that a business could write off in any one year has been \$250,000, which begins to phase out when a business purchases more than \$800,000 of expensing eligible assets. This \$250,000 maximum was scheduled to decrease this year to \$134,000. However, the new law reinstates the \$250,000 limit for 2010.

INCOME TAX APPLICATIONS OF HEALTH CARE REFORM

The President recently signed into law the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010. The most important tax provisions are as follow:

Floor on medical expense deduction raised.

Under current law, medical expenses are only deductible to the extent they exceed 7.5% of the taxpayer's adjusted gross income (AGI). The new law, effective in 2013, increases the non-deductible floor to 10% of AGI.

Penalty assessed for failure to have qualifying health insurance.

Taxpayers without qualifying health insurance will pay a penalty equal to the greater of:

1. \$695 per year per uninsured adult in the household up to a maximum of \$2,085 per family, or
2. 2.5% of household income over the minimum income which requires the filing of a tax return. The minimum income which requires the filing of a tax return in 2010 is \$9,350 if single and under 65 and \$18,700 if married and under 65.

The penalty will be phased in as follows:

- 2014 the greater of 1% of household income over the filing threshold or \$95;
- 2015 the greater of 2.0% of household income over the filing threshold or \$325; and
- 2016 the full 2.5% or \$695.

After 2016, the penalty will be increased annually by a cost of living adjustment.

Increase in Medicare tax rates.

Starting in 2013, the Medicare tax rate on a married taxpayer filing jointly having adjusted gross income of over \$250,000 (\$200,000 if single) will increase from 1.45% to 2.35%. Additionally a 3.8% Medicare tax will be assessed against investment income – dividends, interest, annuities, rents, royalties and capital gains earned by married taxpayers having an adjusted gross income in excess of \$250,000 (\$200,000 if single).

At the end of 2010, the 15% maximum tax rate on qualified dividends and long-term capital gains will expire. The tax rate on dividends will be the same as other ordinary income which is scheduled to increase to 39.6% in 2011. The rate on long-term capital gains is scheduled to increase to at least 20% in 2011. Therefore, in 2013, the maximum tax rate on long-term capital gains will increase from the present 15% to 23.8% (20 + 3.8%) and the maximum tax rate on dividends will increase from the present 15% to 43.4% (39.6 + 3.8%).

While these rates are scary, it is our intention to inform our readers not to alarm them. It looks like our tax honeymoon is rapidly coming to an end.