



*Singer, Berger, Press*  
& Co.

Certified Public Accountants  
& Business Consultants

23500 Mercantile Road, Suite A  
Beachwood, OH 44122-5927  
(216) 595-9400 • Fax: (216) 595-9442

P A R T N E R S

**23500 Mercantile Road, Suite A**  
**Beachwood, OH 44122**  
**Tel: (216) 595-9400**  
**Fax: (216) 595-9442**

**601 South High Street**  
**Columbus, Ohio 43215**

**Andrew I. Press, Editor**  
**Email: [apress@sbp-cpas.com](mailto:apress@sbp-cpas.com)**

## **HIREing Under the New Act**

*The Hiring Incentives to Restore Employment Act (the HIRE Act) became law on March 18th. The legislation includes two temporary payroll tax breaks intended to boost hiring. An interesting point about these breaks is that they can potentially be claimed for wages paid to a business owner's newly hired spouse. They can also potentially be claimed for wages paid to other newly hired relatives of a minority business owner (a person who owns 50% or less of the employer, after considering both direct and indirect ownership). This letter briefly summarizes how the two new breaks can apply to wages paid to spouses and other relatives of business owners.*

### **Temporary Employer Social Security Tax Exemption for Wages Paid to Eligible New Hires**

Wages paid by a private sector business (large and small alike) to a qualified new employee between 3/19/10 and 12/31/10 are exempt from the 6.2% employer portion of the Social Security tax. The maximum amount of employer Social Security tax savings for a high-paid employee is \$6,622 (6.2% × \$106,800 Social Security tax ceiling for 2010). However, the actual savings realized would be less for lower-paid employees and for high-paid workers who are paid less than \$106,800 between 3/19/10 and year-end.

Qualified new employees are full-time or part-time workers who start work between 2/4/10 and 12/31/10 and who provide the employer with a signed IRS Form W-11, Hiring Incentives to Restore Employment (HIRE) Act Employee Affidavit, certifying that they were not employed more than 40 hours during the 60-day period ending on their start dates. However, the new worker cannot replace another worker unless that person quit voluntarily or was discharged for cause.

**Employer Is a Sole Proprietor:** When the employer is a sole proprietorship or a single-member LLC, that is treated as a sole proprietorship for tax purposes, wages paid between the specified dates to the taxpayer's (owner's) newly-hired spouse are eligible for the temporary Social Security tax exemption as long as the spouse meets the preceding definition of a qualified new employee. Wages paid to other newly hired relatives of the owner (including in-laws) will generally be ineligible.

**Employer Is a Corporation:** When the employer is a corporation, wages paid between the specified dates to a majority shareholder's newly-hired spouse are eligible for the temporary Social Security tax exemption as long as the spouse meets the definition of a qualified new employee. Wages paid to other newly hired relatives of a majority shareholder (including in-laws) will generally be ineligible. However, wages paid to a newly-hired

spouse or other relative of a minority shareholder are eligible if the new hire meets the definition of a qualified new employee and is not a relative of the majority owner.

**Employer Is a Partnership:** When the employer is a partnership (including a multimember LLC that is treated as a partnership for tax purposes), wages paid between the specified dates to a majority partner's newly-hired spouse are eligible for the temporary Social Security tax exemption as long as the spouse meets the definition of a qualified new employee. Wages paid to other newly hired relatives of a majority partner (including in-laws) will generally be ineligible. However, wages paid to a newly-hired spouse or other relative of a minority partner are eligible if the new hire meets the definition of a qualified new employee and is not a relative of the majority partner.

**Temporary Tax Credit for Retaining Eligible New Hires:** Above and beyond the temporary Social Security tax exemption, employers can also claim a temporary new tax credit of up to \$1,000 for wages paid to each qualified new employee who is retained for at least 52 consecutive weeks. In addition, wages paid during the second 26 weeks of the 52-week period must equal at least 80% of wages paid during the first 26 weeks of that period. The definition of a qualified new employee is the same as for the Social Security tax exemption

The credit amount equals the lesser of 6.2% of wages paid during the 52-consecutive-week period or \$1,000. To claim the maximum \$1,000 credit, the worker must be paid at least \$16,130 during the 52-week period.

Here's the important point: when a newly-hired spouse or relative of a business owner is eligible for the Social Security tax exemption, wages paid to that spouse or relative may also be eligible for the new employee retention credit. That's because the definition of a qualified new employee is the same for both breaks.

### **Contact Us for More Information**

If you have questions, or want more information about the temporary Social Security tax exemption or the temporary new employee retention credit, please contact us. The eligibility rules in family business situations are complicated, and these breaks have a relatively short fuse, so time is of the essence.

### **A WORD OF ADVICE: the power of an Advisory Board**

We can all benefit from advisors. They are the friends from the trenches who have been on the business battlefield longer than we have; or, they are the friends from a different industry or field who provide a unique perspective; or, they are the seasoned high-profile executives who lend you credibility. You need advisors to bounce ideas off, to provide a reality check, to tell you when you are about to mess up or confide in, when you are alone at the top.

A board of directors has a fiduciary responsibility to the company. They can be liable for mistakes that a company makes. Therefore, it is tough and expensive to secure board directors. Advisory members do not have a fiduciary responsibility. Therefore, generally, they cannot be held liable and their compensation is a fraction of a board member.

Also, board directors have an obligation to the company first, and the CEO second. It is the opposite with advisors--the CEO advisee comes first. Good advisors are still looking out for the company, but their aim is to steer the advisee in the right direction to best care for the company. Your advisory board is on your side. They will be people with no axe to grind, who want to listen to you and advise you. Above all, they want to contribute to your business' well being.

Two to three people are sufficient for an advisory board. They will be expected to meet with you (usually on a quarterly basis) to discuss and advise. While being an active part of your business is payment, of a sort, you should also pay your advisory board members an honorarium for each meeting.

To make the most of these meetings, you will want to prepare an agenda to be distributed in advance of the meeting. Included with the agenda should be any related materials. Your most difficult assignment may be, to be completely open and frank with your advisory board, sharing both your hopes and your fears. If you hold back, they will not be able to advise you.

Again, no single person can know everything, and ad hoc, on the fly advice can be worse than none. An advisory board that meets regularly gets to know you and your business, and provide the management expertise you need to avoid mistakes and set your business on a true course.

*We have worked with clients as part of an advisory board. In this capacity, we have prepared agenda, provided work materials and worked with the CEO, as part of a group, to meet his or her objectives. If you are interested in pursuing this topic further, give us a call.*

## **THE CHANGING 2010 TAX PICTURE AND YOU**

*. . . It was the best of times; it was the worst of times. . . What goes down, must come up. . .*

A decade of tax cuts is coming to an end. In 2010, one thing Congress thought would not happen when they passed the 2001 tax cuts, is, tax rates are going to go up. There are some investment strategies you may want to consider in this environment.

### **Estate Tax**

The good news, no federal estate taxes for the year 2010. The bad news is that if Congress does nothing, we will return to a \$1.0 million exemption (for 2009, it was \$3.5 million), and a graduated rate of 50 percent (for 2009, it was 45%). Although dying in 2010 makes sense for tax purposes, we suggest that you follow our credo to never do something solely for tax purposes.

To reduce estate taxes in future years, you may consider gifting those assets that have decreased substantially in value in recent years. For example if you own Florida land for which you paid \$500,000, but is currently worth \$100,000, gifting it may be a better option than holding it until it returns to the purchase price. This will get the asset out of your estate and transfer its increased future value to your beneficiaries.

### **Municipal Bonds**

Next year is expected to bring increased tax rates to ordinary income, interest and dividends. With the expiration of the "Bush" tax cuts; all tax brackets are to be increased. However, the Obama proposals would increase only the higher brackets of 32 percent to 36 percent, and 35 percent to 39.6 percent. The long-term capital gain rates are expected to increase from 15 to 20 percent, and the tax on dividends is expected to increase from 15 percent to as high as 39.6% (the top ordinary income tax rate).

With this mind, you may want to consider municipal bonds. Many of these bonds are exempt from federal and state taxes. High-grade municipal bonds have provided substantial above market returns in the past and are expected to do so in the future. However, when considering these investments, you should consider that unlike Treasury or government-insured deposit bank products, there is a potential default risk.

The two main varieties are general obligation bonds, which are secured by a government pledge to use resources such as tax revenues to repay investors, and essential service revenue bonds, which cover projects such as water and sewer improvements.

## Education

A way to "kill two birds with one stone" is to have earnings not taxed to you while funding your child's education. You may want to consider making up to a five-year, tax free contribution to a 529-college savings plan. You give five times the annual gift tax exclusion, or \$65,000 as a one-year contribution to one of these plans. The income is tax-free and you are funding a college education. All of the income and capital gains earned within the plan grow, not tax deferred, but tax-free.

These are some alternatives to consider in today's tax climate. We would be pleased to review them further with you.

## NEWS AND NOTES . . .

*The purpose of this column is to keep you informed of happenings within the office and our friends. If you have items you would like to contribute, email them to the editor.*

Congratulations to **Alan Berger** for the award he received from the City of Beachwood Schools for his support, as treasurer, of the committee that worked for the successful passage of the school levy. . . **Michael and Debbie Singer** welcome their first grandchild, Levi of Chicago fame. . . Thanks to **Joe Drasner** who despite the misgivings of his son, Jason (a Michigan graduate), added to Alan's collection by giving him a Michigan teddy bear that plays the Ohio State fight song. . .

**WANT TO READ MORE ABOUT THE FIRM, PREVIOUS NEWSLETTERS, PLANNING ARTICLES, FINANCIAL CALCULATORS, GO TO OUR WEBSITE [WWW.SBP-CPAS.COM](http://WWW.SBP-CPAS.COM)!**

**BUSINESS IS GREAT . . . AND WE ARE LOOKING FOR MORE!**