

PERSPECTIVES ON THE CONSTRUCTION INDUSTRY

WR Webster Rogers LLP
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What You Need To Know About the HIRE Act

A recently passed federal law holds out the promise of some financial relief for contractors struggling in the current difficult economy. The Hiring Incentives to Restore Employment (HIRE) Act contains tax incentives designed to encourage businesses to hire and retain unemployed workers.

The incentives include a payroll tax holiday and an income-tax credit for retaining eligible employees. Contractors that hire seasonal workers will likely benefit from the break on payroll taxes. In addition, the new law benefits businesses that buy machinery and equipment in 2010 by retaining the \$250,000 expensing limit under Section 179 of the tax code.

Payroll Tax Holiday

The employer portion of the Social Security payroll tax is currently equal to 6.2% of up to \$106,800 of wages paid to an employee. The HIRE Act exempts employers from paying their share of the Social Security tax on wages paid to qualified individuals from March 19, 2010, through December 31, 2010. The law does not place a limit on the number of qualifying workers an employer can hire.

The tax holiday is available for a newly hired employee who:

- ✓ Is hired (or rehired) after February 3, 2010, and before January 1, 2011.
- ✓ Has not been hired to replace a terminated employee *unless* the former employee left the employer voluntarily or was terminated for cause.
- ✓ Is not related to the employer (as defined in the law).
- ✓ Has been unemployed for the 60-day period ending on the date employment begins or has worked no more than 40 hours during the same 60-day period.
- ✓ Provides a signed affidavit certifying his or her unemployment status. Employers may use Form W-11, available on the IRS's website (www.irs.gov), for this purpose.

Credit for Retained Workers

In addition to the payroll tax holiday, employers can claim an income-tax credit for retaining qualifying workers for at least 52 consecutive weeks. The credit for each retained employee is (1) \$1,000 or (2) 6.2% of wages paid to the employee during the 52-week period, whichever is less. The credit is available only if wages paid to the employee during the last 26 weeks of the 52-week period are at

least 80% of wages paid during the first 26 weeks.

Section 179 Expensing

As noted, the dollar limit on asset purchases eligible for Section 179 expensing will be \$250,000 for 2010 as a result of the HIRE Act. The \$250,000 deduction maximum is reduced to the extent the cost of qualifying property placed in service during the taxable year is greater than \$800,000. The Section 179 expensing election is available for most non-real-estate assets.

We would be happy to help you determine if your firm can benefit from any provision of the HIRE Act. ✓

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Power Tool Smarts

U.S. construction work sites are becoming safer. The number of fatalities in construction fell 20% from 2007 to 2008, according to data compiled by the U.S. Department of Labor's Bureau of Labor Statistics. Despite the decline, contractors need to remain vigilant and continue to find ways to protect their workers from on-site accidents. One area that contrac-

“... accidents may occur when operators don't pay enough attention to their surroundings.”

tors could focus on is the improper use of power tools and the potentially serious consequences of their misuse. Whatever the power tool — a table saw, jack hammer, or chain saw, for example — it can be helpful to keep reminding employees that care must always be taken when

using them. Here are some points worth repeating.

Focus on the Basics

If you supply the equipment, you should confirm that the operators have read the manual and are familiar with all of a tool's safety features. Consider having operators sign an acknowledgement to that

effect. Anyone operating power tools should be required to wear the proper protective gear — safety glasses or goggles, ear plugs, and non-

slip steel-toed workboots. Operators should only use undamaged power tools that have insulating grips. Power cords must not be frayed or worn. Most workers know enough not to wear loose clothing or jewelry on the site, but it's still worth reminding everyone how

dangerous it can be if clothes or jewelry get caught in a tool's moving parts.

Stay Alert

Familiarity can sometimes lead to complacency and unnecessary risk taking, and accidents may occur when operators don't pay enough attention to their surroundings. Overhead electric lines and buried electric cables pose significant potential hazards to equipment operators. Operators should have sufficient space for the safe operation of their tools and should be able to work in areas free from flammable liquids or vapors. Just as importantly, operators need to be aware of other workers and construction vehicles operating in or near their own work area.

Work site safety is a continuing process, one that requires time and effort on the part of contractors. However, the payoff for this extra care and vigilance is a safe work environment and potentially lower insurance premiums. ✓

A Social Media Policy for Your Company

Social networking sites reach millions of people and have significantly changed the way people communicate and interact online. The influence of these sites can be enormous. Some of your employees may use social media while on the job or away from the workplace. And it's possible that their use of these media could create legal problems for you and your business. Even if you only have a couple of employees, you should be aware of potential trouble spots.

There are two areas that you should be concerned about: the perception that employees are speaking on behalf of your business and leaks of confidential or proprietary information. A specific company policy regarding employees' use of social media may offer your business some protection.

Who Speaks for Your Business?

Your company's public image and

standing in the community could suffer if an employee who has identified him- or herself as a company employee uses offensive language online. Or, what if an employee uses a social media site to endorse or to offer a testimonial about one of your firm's projects, a condo development, for example, and does not disclose his employment relationship? Your business may be found to have violated the Federal Trade Commission (FTC) Act if someone later claims that he or she was misled into buying what is alleged to be a defective product based on your employee's comments. Essentially, under Federal Trade Commission guidelines on the use of endorsements and testimonials, employees may be considered paid endorsers for your company by consumers even if your employees are not authorized to speak on your company's behalf.

The FTC has stated that it generally won't take action based on the activities of a single rogue employee. However, it

has also indicated that it could take action against businesses whose failure to establish or maintain appropriate internal procedures resulted in a consumer injury.

Leaks of Confidential Information

Employees may accidentally disclose financial information, marketing plans, or expansion strategies on a social network site they frequent. You may not discover that the leak occurred until it's too late and the damage has been done. The result could be a financial or strategic loss for your business.

A Solution

A written company policy on your employees' use of social media could help minimize liability issues. We recommend that you involve your legal advisor in drafting your company's social networking policy. ✓

Insurance for Contractors

Construction is a difficult and unpredictable business. Contractors know that there are some things they can do little about — the weather, for example. But they also know that they can take certain measures to prevent issues such as theft, damage, subcontractor defaults, or work site injuries from having serious financial consequences for their business. The most effective tool they use to minimize the impact of potentially costly events is insurance.

Knowing what types of insurance are available and which may be needed specifically for your business is critically important. Some owners and governmental entities will insist that your firm have certain types of insurance in place before they'll consider a bid. The following overview of the different types of insurance available to contractors may help you determine the overall approach that is most appropriate for your business.

Surety Bonding

A surety bond is an agreement that binds you, the contractor, to comply with the terms and conditions of a contract. It typically deals with the performance of some or all stages of a construction project. In situations where your firm can't successfully meet the terms of the contract, the surety assumes your financial responsibilities until the project is completed. You may find it impossible to obtain work on certain projects without first obtaining surety bonding.

General Liability Insurance

Lawsuits are a fact of life for businesses. Losing a lawsuit or agreeing to a settlement can be extremely expensive. General liability insurance protects your business assets in case your business is sued for something it did (or did not do) that caused a personal injury or property damage. Commonly, an accident or mistake may have occurred. Liability insurance may cover a variety of claims, including bodily injury, property damage, personal injury, and even damage from slander or false advertising.

Workers' Compensation Insurance

Businesses are generally required to carry workers' compensation coverage. Workers' compensation insurance protects you from worker lawsuits that result from injury related accidents on the job and may provide various benefits, including medical treatment and compensation for your injured employees' lost income. If covered, employees receive workers' compensation payments irrespective of who was at fault for the accident. If you have projects in more than one state, you should be aware that workers' compensation laws vary from state to state.

Builder's Risk Insurance

Builder's risk insurance is intended to provide protection for construction projects under way. In addition, it generally covers any theft of or damage to materials used in a project, such as plumbing, lighting fixtures, electrical equipment, or appliances.

Pollution Liability Insurance

Trade, general, and specialty contractors must factor in the possibility of an accidental release of fuel oil, gases, or chemicals from ruptured pipelines and fuel tanks on a project. Were that to happen on one of your projects, it's possible that your business could be held liable and face substantial financial losses. Pollution liability insurance provides protection for contractors for a wide range of pollution risks. In addition, policies may provide insurance for third-party claims for bodily injury and property damage as well as for remediation costs that stem from pollution incidents.

Key Person Insurance

What would happen to your business if you, a partner, or another key employee were to die? Key person life insurance is designed to protect your business in such a scenario. If you operate your business with multiple partners, you should consider using life insurance to fund a buy-sell agreement. Disability insurance

for you and your key people should also be a priority.

Property Insurance

Basic property insurance typically protects the physical assets of your business, such as buildings, inventory, furniture, documents, machinery, and similar items.

Wrap-up Insurance

Wrap-up insurance plans consolidate insurance coverage for general contractors and subcontractors who are working on a single project. It's purchased and managed by a single sponsor, either the owner or the general contractor. A wrap-up policy typically extends to workers' compensation, general liability, excess liability, builder's risk, and pollution liability insurance.

Umbrella Insurance

A business can use so-called umbrella coverage to protect itself from a major catastrophe or lawsuit. Umbrella insurance provides coverage in amounts in excess of the difference between your underlying general liability coverage and the amount awarded or settled upon up to the policy's limit resulting from a lawsuit or other claim.

Call Us

Take the time to review your firm's insurance coverage so you can identify any gaps that may exist. If we can help with your review, please call us. ✓

The general information in this publication is not intended to be nor should it be treated as tax, legal, or accounting advice. Additional issues could exist that would affect the tax treatment of a specific transaction and, therefore, taxpayers should seek advice from an independent tax advisor based on their particular circumstances before acting on any information presented. This information is not intended to be nor can it be used by any taxpayer for the purpose of avoiding tax penalties.

1411 Second Loop Road / 29505
 PO Box 6289 / 29502
 Florence, SC
 843-665-5900 (ph)
 843-678-9523 (fx)

1759 North Fraser Street / 29440
 PO Drawer 1628 / 29442
 Georgetown, SC
 843-546-2426 (ph)
 843-546-0028 (fx)

Parkway Center, Suite 201
 950 48th Avenue North
 Myrtle Beach, SC 29577
 843-448-1500 (ph)
 843-497-2588 (fx)

380 West Wesmark Blvd
 Sumter, SC 29150
 803-905-4000 (ph)
 803-905-4001 (fx)

Carolina First Center, Suite 320
 40 Calhoun St. / 29401
 PO Box 20099 / 29413
 Charleston, SC
 843-577-5843 (ph)
 843-723-3075 (fx)

Litchfield Commons, Suite 2A
 14361 Ocean Highway 17
 PO Box 350 / 29585
 Pawleys Island, SC / 29585
 843-237-9004 (ph)
 843-237-9160 (fx)

The Tower at 1301 Gervais
 Suite 802
 Columbia, South Carolina 29201
 803-312-0001 (ph)
 803-255-8886 (fx)

100 South Main Street, Suite G / 29483
 PO Box 1588 / 29484
 Summerville, South Carolina
 843-873-4400 (ph)
 843-873-7227 (fx)

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Florence, Charleston, Myrtle Beach, Columbia, Georgetown, Sumter, Litchfield, Summerville

Contact Us

wr@websterrogers.com

www.websterrogers.com

Developments in Tax and Business

Targeting Future Homebuyers

Researchers cite women, baby boomers, and immigrants as the demographic groups most likely to drive future demand for housing. Women are the fastest growing buyer segment, while baby boomers are downsizing and seeking out smaller and less labor-intensive properties.

EPA Extends Storm Water Construction General Permit

The Environmental Protection Agency (EPA) has extended by one year, to June 30, 2011, its 2008 storm water Construction General Permit (CGP). The 2008 CGP regulates the discharge

of storm water from construction sites that disturb one acre or more of land and from smaller sites that are part of a larger development. The agency wants the extension to incorporate the new national Construction and Development Effluent Limitations Guidelines requirements into the CGP.

IRS Audits

The audit rate for all corporate returns other than Form 1120S was 1.3% for the 2009 fiscal year, according to the IRS. For partnership and S corporation returns, the rate was .4%. The IRS audited 1,425,888 individual income-tax returns in 2009. However, the majority of those audits (77.1%) were correspondence audits. ✓

Can We Serve You?

Our firm provides a broad range of accounting, auditing, tax, employee benefit, and management consulting services to contractors.