

## HIRE Act Employment Incentives

There may be even more perks for businesses in the Obama administration's pending budget bill, but for now, the Hiring Incentives to Restore Employment, or HIRE Act, is law and provides some attractive tax incentives to employers seeking to add to their workforce.

Under the HIRE Act, small businesses and other private employers (including not-for-profits) are exempt from paying the employer's 6.2% Social Security tax on wages paid to "qualified employees" during the period from March 19, 2010 through December 31, 2010. This payroll tax exemption can be worth as much as \$6,621 for a worker paid the maximum wage subject to Social Security tax (\$106,800) by the end of the year.

"Qualified employees" are individuals hired after February 3, 2010 who have been unemployed or employed for less than 40 hours during the 60-day period ending as of the date of hire. This includes recent graduates who have never been previously employed because there is no requirement that a qualified employee be laid off from a prior job.

Qualified employees must verify their status by submitting a signed Employee Affidavit on the newly issued IRS Form W-11 (click here <http://www.irs.gov/pub/irs-pdf/fw11.pdf>). Meanwhile, employers can claim the payroll tax exemption on Form 941, the quarterly Federal withholding return, beginning with the second quarter of 2010.

The HIRE Act even has a bonus benefit if qualified employees are retained for at least 52 consecutive weeks. That period of employment earns the employer a non-refundable tax credit of up to \$1,000 per employee against the employer's 2011 income tax liability. The HIRE Act also extends the current deduction for machinery and equipment expense of up to \$250,000 (there's a phase-out for taxpayers spending more than \$800,000). These are the same rules in effect for 2008 and 2009, but the extension will help any business investing in machinery and equipment during 2010.

Now for the disclaimers: The payroll tax exemption is not available for wages paid to family members of the employer and to any employee hired to replace an existing worker unless the existing worker voluntarily terminates employment or is fired for cause. However, if an employer lays off an employee for lack of work and later, when work picks up, hires a new worker who is a qualified employee, the payroll tax exemption is available for the new worker. HIRE also does not cover household employers who engage domestic help.

The only downside under the HIRE Act is a potential give-up of the Work Opportunity Tax Credit, which cannot be combined with the HIRE Act payroll tax exemption. The Work Opportunity Tax credit is available to private sector employers who hire individuals from twelve groups that have consistently faced barriers to employment (including unemployed veterans,

summer youth employees, ex-felons, qualified food stamp recipients and designated community residents). But an employer can take the payroll tax exemption now and elect out of it later on if it makes sense at that time to take the Work Opportunity Tax Credit.

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