

HIRE (Hiring Incentives to Restore Employment) ACT

- Commonly known as the Federal Jobs Bill
- Grants Social Security Forgiveness – The 6.2% employer portion of the social security tax is exempt for any qualified individual hired for wages paid between March 19, 2010 and December 31, 2010, up to the \$106,800 social security wage base. The employee's 6.2 percent share of social security tax and the employer and employee's shares of Medicare tax still apply to all wages.
- Taxable businesses and tax-exempt organizations qualify for the payroll tax exemption. Federal, state and local government employers generally do not qualify for the payroll tax exemption. However, public colleges and universities can qualify for the exemption. Indian tribal governments also qualify for the exemption.
- To meet the requirements for employer exemption, individuals must:
 - began employment with a qualified employer after February 3, 2010, but before January 1, 2011.
 - have been unemployed or were not employed for more than 40 total hours during the previous 60 days.
 - must sign an affidavit attesting that they were not employed for more than 40 total hours in the previous 60 days.
 - are not hired to replace another employee unless the previous employee separated from employment voluntarily or terminated for cause (including downsizing).
 - are not a family member of the business owner. An employee is related to you if he or she is your child or a descendant of your child, your sibling or stepsibling, your parent or an ancestor of your parent, your stepparent, your niece or nephew, your aunt or uncle or your in-law (see additional information of Form W-11).
 - are not a household or government employee.
 - additional notes:
 - Seasonal employees qualify if they meet the prior conditions.
 - New businesses qualify for the exemption if the employee is qualified.
 - There is no limit to the total number of hires during this period.

- The social security tax exemption cannot be taken in conjunction with the Work Opportunity Tax Credit (WOTC). If the employer chooses to take the WOTC on a qualified worker, they cannot also take the social security tax exemption.
- For further details and a **New Hire Eligibility Checklist**, see the last page.
- Form W-11 – Hiring Incentives to Restore Employment (HIRE) Act Employee Affidavit for employers to use for eligible employees is available through the IRS website or at www.phbcpa.com. Click on Downloads/Links to download the form.
- Form 941 has been revised by the IRS for use when filing the return for the quarter ending 6/30/2010, due August 2, 2010. First quarter wages and credits will be reported on the second quarter form.
- Schedule B of Form 941 will not change.
- Form W-2 will be modified to report exempt wages and tips for qualified employees.
- Form W-3 will also be modified.

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Social Security Tax Exemption

The 6.2% Employer Social Security Tax exemption applies to previously unemployed individuals hired after February 3, 2010 who have worked less than 40 hours during the 60-day period prior to employment and whose 2010 earned wages after March 18, 2010 and before January 1, 2011 do not exceed \$106,800. If an otherwise qualifying individual earns more than \$106,800, then the Employer Social Security Tax exemption only applies to the first \$106,800 of qualifying wages.

The 60 day work period may extend backwards into 2009. A re-hired employee who meets the employee qualifications will also qualify the employer for the exemption and credit, even if the employee has been receiving COBRA assistance. Additionally, an employee who was previously a student may qualify because there is no requirement that the new employee be previously employed.

Employers can save the 6.2% Employer Social Security Tax, whether they hire a \$40,000 worker, or a \$90,000 worker. Employers, including nonprofit organizations, and colleges and universities, would not have to wait until 2011 to benefit from this tax relief

The related party rules identify the following individuals as non-qualified related parties (IRC Sec. 51 (i)(1) referring to IRC Sec. 152 (d)(2) Sec. A-G):

- (A) A child or a descendant of a child.
- (B) A brother, sister, stepbrother, or stepsister.
- (C) The father or mother, or an ancestor of either.
- (D) A stepfather or stepmother.
- (E) A son or daughter of a brother or sister of the taxpayer.
- (F) A brother or sister of the father or mother of the taxpayer.
- (G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

New Hire Checklist & Calculator

Employee:

Hire Date:

| <i>Instructions:</i> Questions 1-5 must be "Yes", question 6 must be "No" for the employee to qualify for the FICA exemption and the new hire credit. | Yes | No |
|---|-----|----|
| 1. Was the employee hired after 2/3/2010? | | |
| 2. Was the employee unemployed for the previous 60 days, or worked less than 40 hours (total) in the previous 60 days? | | |
| 3. Has the employee signed an affidavit attesting to the unemployment tests above? | | |
| 4. Was the employee hired before 1/1/2011? | | |
| 5. Is the employee unrelated to the business owner? | | |
| 6. Was the employee hired to replace another employee (except those who left voluntarily or were terminated for cause)? | | |
| If questions 1-5 above are yes, and question 6 is no, continue to the calculator below. | | |
| a. Number of days in 2010 after 3/18/2010 that employee was employed by company for annualization where needed | | |
| b. Annual salary | | |
| c. Gross wages after 3/18/2010 or annualized amount (a/365 x b) | | |
| d. Less excess wages over 106,800 | | |
| e. Net qualifying wages | | |
| f. Multiple line "e" by .062 equals 2010 employer FICA exemption | | |