

Business Owners: Make Sure to Take Advantage of the New Tax Benefits for Hiring and Retaining Recently Unemployed Persons

Business owners should be aware of two tax benefits afforded them under the Hiring Incentives to Restore Employment (HIRE) Act enacted March 18, 2010 – a payroll tax exemption for certain newly hired employees and a payroll tax credit for the retention of certain newly hired employees.

Payroll Tax Exemption:

Under this Act, employers will receive a tax exemption for the amount in Social Security taxes paid by qualified employers on wages paid to qualified employees in covered employment during the qualifying period. Employers request the tax exemption at the time they file the quarterly employment tax return (i.e. Form 941).

In order to qualify for the tax exemption, employers must have located in their payroll files an IRS Form W-11 signed by the qualified employee. Employers are well advised to have qualified employees sign a Form W-11 immediately upon hire. The employer must have the signed affidavit by the time the employer files an employment tax return applying the payroll tax exemption; otherwise the employer may have to file a corrected Form 941. Furthermore, an employer cannot apply for the tax exemption if the employee does not sign the Form W-11. If an otherwise qualified employee leaves employment without signing the Form W-11, it may be difficult or impossible to get the former employee's signature.

A qualified employee is one who begins employment after February 3, 2010 and before January 1, 2011, has not worked more than 40 hours during the 60 continuous days prior to employment, must sign an affidavit or similar statement under penalties of perjury to certify this (e.g. IRS Form W-11), is not employed to replace another employee and is not related to the employer. The qualifying period begins March 19, 2010 and ends on December 31, 2010.

Credit for Retention of Certain Newly Hired Employees:

The HIRE retention credit is a general business credit to encourage retention of certain new hires and will be claimed on the employer's annual income tax return. The amount of the credit is the lesser of \$1,000 or 6.2 percent of wages (as defined for income tax withholding purposes) paid by the employer to the retained qualified employee during the 52 consecutive week period. The definition of qualified employee for the retention credit is the same definition of qualified employee for the payroll exemption.

The new hire retention credit can be claimed for any qualified employee, as defined for purposes of the payroll tax exemption, once the employee is employed for 52 consecutive weeks, so long as the employee's wages (as defined for income tax withholding purposes) for the last 26 weeks of employment equal at least 80% of the employee's wages for the first 26 weeks of employment. The credit may be claimed for a retained worker for the first taxable year ending after March 18, 2010 (the date of enactment of the HIRE Act), for which the retained worker satisfies the 52 consecutive week requirement.

If you have any questions about the HIRE payroll tax exemption or retention credit, please do not hesitate to contact me at 717-657-7770.

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