

The President recently signed into law the “Hiring Incentives to Restore Employment Act of 2010” (the HIRE Act). The employment provisions of the law provide a payroll tax holiday and an up-to-\$1,000 tax credit for businesses who hire unemployed workers. The following is an overview of the new hiring incentives.

First, the law exempts any private-sector employer from paying the 6.2% employer match for social security tax on wages of *eligible* employees. To be eligible for the exemption, the employee must:

- Be hired after February 3, 2010 and before January 1, 2011,
- Not have worked for more than 40 hours in the 60 days before employment,
- Be hired for a new position OR to replace an employee who left voluntarily or for cause,
- Not be a household or government employee, and
- Not be related to anyone owning greater than 50% of the company.

The exemption applies to eligible employee wages paid between March 19, 2010 and December 31, 2010 and only on the employer share of social security tax. The employer must still withhold the employee’s share of social security and Medicare tax and match the 1.45% Medicare tax.

All eligible employees must sign an affidavit (Form W-11) stating they were not employed more than 40 hours in the 60 days before employment. Please retain this affidavit and, if you use a payroll service, please provide a copy to the payroll service.

The exemption will be claimed as a credit on Form 941 beginning in the second quarter. Businesses may reduce the payroll tax deposit for the amount of the credit. For example, the payroll tax deposit for July 15, 2010 is \$5,000. The employer matching Social Security tax on a new hire is \$100. Instead of depositing the \$5,000 and getting a \$100 refund, the business may deposit the net amount (\$5,000 less the \$100 credit). The exemption for wages paid from March 19 through March 31 will be added to the second quarter credit.

Second, there is up-to-\$1,000 non-refundable income tax credit to be claimed on the 2011 employer business tax return for the above-mentioned eligible employees if:

- The employee is kept on the payroll for a continuous 52 weeks,
- The employee is not a domestic employee, and
- The employee's pay in the second 26-week period must be at least 80% of the pay in the first 26-week period.

The credit for retaining eligible employees is the lessor of \$1,000 or 6.2% of the wages paid during the 52-consecutive-week period of employment.

Please contact us if you would like more details about these provisions or any other aspect of the new law.