



Hiring Incentives to Restore Employment (HIRE) Act

On March 18, 2010, President Obama signed into law the Hiring Incentives to Restore Employment (HIRE) Act. The Act gives employers a temporary payroll tax exemption for qualifying new hires plus a tax credit for retaining new employees. The Act also temporarily extends increased Internal Revenue Code (IRC) Section 179 expensing limits.

Not eligible

The payroll tax exemption does not apply to the United States government, any state or political subdivision, or any government instrumentality. However, public higher education institutions are eligible.

Payroll tax exemption

Employers who hire a qualified new employee after February 3, 2010, will generally be exempt from paying the Social Security (Old Age, Survivors, and Disability Insurance, or "OASDI") portion of the FICA employment tax on wages paid to the individual after March 18, 2010, and before January 1, 2011.

To qualify, the new employee must certify that he or she has not been employed for more than 40 hours during the 60-day period ending on his or her date of hire, and the new employee can't be hired to replace another employee (unless the other employee separated voluntarily, or was terminated for cause). Also, the new employee can't be related to the employer. Most employers are eligible--the payroll tax exemption generally applies to any employer other than the federal government, or state and local governments.

Qualifying new employees

- Must begin employment after February 3, 2010, and before January 1, 2011
- Must certify that he or she has not been employed for more than 40 hours during the 60-day period ending on his or her date of hire
- Cannot be hired to replace another employee, unless the other employee separated voluntarily, or was terminated for cause
- Must not be related to the employer

For wages paid prior to April 1, 2010, that would otherwise qualify for the payroll tax exemption, the tax benefit comes in the form of a second-quarter credit--employers must pay the regular amount of Social Security tax on these wages, but the amount of tax that would have been exempted is treated as a payment against payroll tax in the second quarter of 2010.

Tax credit for retaining new hires

If an employer hires an individual who qualifies for the payroll tax exemption described above, and continues to employ the individual for at least a year, the employer may be entitled to a new business tax credit. This tax credit is allowed for each "retained worker." A retained worker is an individual who:

For 2010, the Social Security (OASDI) employer portion of the FICA employment tax is 6.2% of the first \$106,800 of taxable wages paid to an employee.

- Is a "qualified individual" for purposes of the payroll tax exemption (i.e., was hired after February 3, 2010, and before January 1, 2011, and meets all other requirements),
- Was employed on any date during the year,
- Was employed for at least 52 consecutive weeks, and
- Has wages during the last 26 weeks of the 52-week period that equal at least 80% of his or her wages during the first 26 weeks of the 52-week period.



The credit is calculated individually for each qualifying employee, and is available for each employee in the taxable year in which the employee first satisfies the 52-consecutive-week employment period. The per-employee credit amount is equal to 6.2% of the wages paid to the employee during the 52-week period, up to a maximum of \$1,000.

If you have any questions, do not hesitate to contact us.
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