

March 29, 2010

ALERT: New jobs creation act provides social security tax “holiday” plus tax credits for hiring and retaining formerly unemployed

The Hiring Incentives to Restore Employment (HIRE) Act, signed into law March 18, 2010, provides two different incentives to employers hiring individuals who have been out of work and meet certain qualifications. The first incentive is relief from the employer’s share of Social Security tax for qualified hires during 2010; the second is tax credits of up to \$1,000 per qualified individual for retaining new hires for at least 52 weeks.

Which employers and employees qualify?

Private employers, public institutions of higher education and not-for-profits may qualify for these incentives. Federal, state and local government employers do not qualify.

Employers who hire individuals meeting the following qualifications may be eligible for the HIRE incentives:

- Hired after Feb. 3, 2010 and before Jan. 1, 2011
- Certifies (using an IRS form currently being developed or one created by the employer) that he or she has not been employed for more than 40 hours during the 60-day period ending on the day the individual begins work for the new employer
- Was not hired to replace another employee unless the other employee left voluntarily or was terminated for cause. Employees hired to replace involuntarily terminated employees (unless they were terminated for cause) do not qualify for the incentive.
- Is not related to the qualified employer or to anyone owning 50% or more of the stock or other capital of the employer

Social Security tax “holiday”

Qualified employers hiring qualified individuals earn relief from paying the employer’s share of Social Security tax on the new employee. Social Security tax is 6.2% of covered wages paid up to \$106,800 from March 19 through December 31, 2010. Thus, employers could receive tax benefits up to a maximum of \$6,621 per qualified new hire. This tax “holiday” also applies to the employer share of the equivalent Railroad Retirement Tax Act tax – however, the employer must still pay Medicare tax. This tax relief does NOT extend to the employee’s share of either Social Security or Medicare tax; both must be withheld by the employer.

Even qualified employers should continue paying Social Security taxes through March 31;

these payments will be counted as a payment toward the employer share of Social Security tax due in the second quarter.

Employers may not claim both this incentive and the Work Opportunity Tax Credit. If the Work Opportunity Tax Credit (WOTC) is more valuable to the employer, the organization may choose not to take the tax holiday. The WOTC provides a tax credit of up to 40% of wages up to \$6,000 for a maximum credit of \$2,400 per employee, so it may offer more benefit for those hiring low-wage workers.

Employee retention tax credit

Employers retaining qualified new workers for 52 consecutive weeks may earn a tax credit of up to \$1,000 per employee. The tax credit earned is the lesser of \$1,000 or 6.2% of the wages paid during the 52-week period – so if the employer pays the employee at least \$16,129 or more in wages during the 52 weeks, the business tax credit is \$1,000. If wages paid for the period are below \$16,129, the business tax credit equals 6.2% of wages paid.

Qualifying wages must be subject to federal income tax withholding, so wages paid to domestic workers and employees who can claim the foreign earned income exclusion do not generate a credit for the employer.

The retention tax credit and the Social Security tax holiday may both be claimed for qualifying employees.

If you have any questions about the HIRE Act, please contact AGH vice president of outsourcing services Cindy Henning at (316) 291-4101 or email cindy.henning@aghlc.com.

NOTE: Information in this document has been obtained by Allen, Gibbs & Houlik, L.C. from sources believed to be reliable. However, AGH does not guarantee the accuracy nor completeness of any information. This communication does not and is not intended to provide advice or counsel, nor is it intended to be used as a substitute for seeking specific advice. Nothing in this can be used to avoid penalties that may be imposed by a governmental taxing authority or agency.