

The HIRE Act of 2010

Listed below is a brief summary of the key points of the act and how the payroll tax holiday and credit works:

Section 179:

The Act HIRE of 2010 extended the section 179 expense of \$250,000 for 2010 it would have only been \$134,000 before the act passed. The \$250,000 amount is reduced by the amount by which the cost of qualifying property placed in service during 2010 exceeds \$800,000.

Payroll Tax Holiday:

1. The payroll tax holiday exempts the employer from the matching share of the 6.2% FICA tax for qualified employee's payroll paid from March 19, 2010 thru December 31, 2010. The exemption is for wages actually paid not accrued during the time period allowed.
2. Qualified employee is an employee hired after February 3, 2010 and before January 1, 2011 that has been unemployed or employed less than 40 hours during the 60 day period ending on the date they started employment. The 60 day period can span between 2009 and 2010, but it must be continuous.
3. This applies to previous laid off workers by the employer and employees hired to replace terminated workers, if the termination was voluntary or with cause. The employee hired does not need to be a previously laid off employee. The employee hired can also be a recent college graduate.
4. The hired employee cannot be a related person of the employer. There is no minimum age to a qualified employee.
5. The employee must certify by signing an affidavit, under penalties of perjury, that they have not been employed more than 40 hours during the 60 day period ending on the date of employment.
6. The IRS has created an affidavit Form W-11 for the employee to sign and keep in the employer's record. It does not need to be sent to the IRS. The employer can create its own form but it must include the same information that is on the W-11 Form.
7. The employer must have the affidavit signed by the time they file the 941 to claim the exemption. If the affidavit is received after the wages are paid but before the 941 is filed then they can use the exemption. If the affidavit is received after the 941 is filed then only the wages that are paid for the next quarter qualifies.
8. The payroll tax exemption for qualified wages for the first quarter of 2010 will be claimed as a credit on the second quarter 941.

9. The W-2 Form filed for this employee will have a CC Code for box 12 and a new box 12b has been created for Form W-3 to report the aggregate of Code CC.

The New Hire Retention Credit:

1. This is a general business credit to encourage retention of the new hires. The employer may claim the credit for each employee who is a qualified employee for purposes of the payroll tax exemption and who remains an employee for 52 consecutive weeks, provided that the employee's pay does not decrease significantly in the second half of the year. 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 credit cannot be carried back but may be carried forward. The new hire retention credit will be claimed on the employer's 2011 income tax return.

Our Suggestion:

For any new hires since February 3, inquire about their qualifications for this holiday and have anyone who qualifies complete Form W-11.

From now until December 31, 2010 always include a W-11 Form with new hire orientation information to make sure you're claiming the exemption on all the eligible employees.

Please call Kristie Hancock with any questions you may have.