

## Jobs Law Provides Tax Breaks to Companies that Hire Unemployed Workers

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By Maria Greco Danaher

On March 28, 2010, President Obama signed the Hiring Incentives to Restore Employment (HIRE) Act, which contains more than \$17 billion in tax credits aimed to stimulate employment, and includes \$20 billion for highway and transit infrastructure programs. One of the most important provisions for businesses is a tax credit for hiring from the ranks of the unemployed.

Under the HIRE Act, the employer of a "qualified employee" is excused from paying the employer match for the 6.2 percent Social Security portion of that employee's wages in 2010. A qualifying employee is one who is hired after Feb. 3, 2010, and before Jan. 1, 2011; is not hired to replace another employee; is not related to the employer; and certifies under penalty of perjury that he or she has not been employed for more than 40 hours during the 60-day period ending on the date that employment begins with the new employer. This incentive can save the employer up to \$6,621.60 for each qualified employee hired (6.2% of the maximum Social Security withholding for 2010), with increased savings for hiring qualified veterans, whose maximum Social Security withholding amount is higher.

Employers also can receive a tax credit on their 2011 return for each new employee hired and retained for 52 weeks under certain criteria; that credit is the lesser of \$1,000 or 6.2 percent of the wages paid to the employee for those 52 weeks.

These tax incentives are meant to spur job creation, especially for small businesses who are undecided about whether to begin to ramp up company-building efforts in light of recent economic difficulties.

In addition, the act includes a one-year extension of expensing thresholds so that small businesses may elect to write-off up to \$250,000 of certain capital expenditures (subject to a phase-out once those expenditures exceed \$800,000) in 2010 in lieu of depreciating those costs over time.

The goal of that provision is, of course, to provide an incentive to businesses to invest immediately in equipment and inventory to jump-start economic activity.

The act extends current federal aid for certain highway programs, saving existing jobs associated with that work. It also establishes a new Build America Bonds program that will provide an optional direct subsidy for bonds issued for certain school and energy projects.

One key revenue source for the act's programs is a limitation on the ability of multinational corporations to shift assets among foreign institutions in order to minimize withholding tax. In 2004, Congress provided to certain taxpayers an election to take advantage of a rule for allocating interest expense between U.S. sources and foreign sources for purposes of determining that taxpayer's foreign tax credit limitation. The phase-in of that rule previously was delayed a number of times. The HIRE Act further delays the implementation to 2021, which is estimated to raise nearly \$10 billion over the next ten years.

Congressional leadership has called the HIRE Act the "first of several" laws intended to stimulate job creation. Employers should make themselves aware of the opportunities that are becoming codified in new laws, and should maximize on those opportunities for employing and re-employing qualified individuals. However, employers also must recognize that these new laws do not excuse employers from complying with existing anti-discrimination laws, and should be aware that increased hiring may call for increased diligence in compliance with those laws.

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