

Take Advantage of the HIRE Act

Did you hire or re-hire employees in 2010? You may be eligible for a tax credit.

It's a good sign for your small business when growth and success is reflected in your ability to hire a new employee, or even bring back a valuable member of your team. And it doesn't hurt that it relieves some of the burden of managing every task yourself. Now it could also mean a little tax relief.

You may be eligible for tax savings under the HIRE Act. This legislation can relieve you from the employer share of social security taxes paid on wages paid to your new hire through the end of 2010, and a business income tax credit of up to \$1000.00 for wages paid into 2011. The employee must be qualified per the IRS criteria and there is – of course – a form to be completed, but a few minutes could save you a significant amount of money.

Who is a “qualified” employer?

Taxable businesses and tax-exempt organizations in the U.S. and its territories qualify for the payroll tax exemption, as well as public colleges and universities. Household employers and government employers generally do not qualify.

Who is a “qualified” employee?

An individual hired or re-hired after February 3, 2010 and before January 1, 2011 can qualify if they were unemployed or employed for 40 hours or less during the 60 days immediately before their hire or re-hire date. This includes people just entering the workforce, such as recent graduates, who were not employed during the specified 60-day period. Individuals who were self-employed during the specified 60-day period would also qualify as long as no employee/employer relationship existed during that time. Qualification also applies to any former employees who were laid off due to lack of work and then rehired after that 60-day period, as long as they otherwise qualify under the hours worked threshold. A replacement worker can qualify if the person they are replacing left voluntarily or was terminated for cause. The replacement worker cannot be a family member or related in certain other ways to the employer.

For the social security payroll tax credit there is no requirement regarding the number of hours or the length of time a qualified individual needs to be employed in their new position, making the credit applicable to seasonal, temporary or part time employment as well as full time permanent employees. The business income tax credit does have a length-of-service provision, which is explained in a subsequent paragraph.

What forms are necessary?

The employer must rely on the information provided by the new employee as to their eligibility and qualification under the HIRE Act. Therefore, the employer must have the employee sign an affidavit to certify their qualification. Employers can use IRS Form W-11 to satisfy this requirement and the employer must receive the completed form from the employee before the end of the quarter in which the payroll tax credit will be taken. These forms are not sent to the IRS, but are retained by the employer as documentation that the credit applied for each employee was valid. Form W-11 can be obtained on the IRS web site at <http://www.irs.gov/pub/irs-pdf/fw11.pdf>.

How is the payroll tax credit calculated?

The tax credit is actually relief from paying the employer's share of social security tax on wages **paid** to a qualified employee for the period March 19-December 31 2010. For example, wages earned on or before December 31st, but paid after that date does not qualify. The amount of the credit is 6.2% of the taxable social security wages. The credit can be taken immediately by reducing the amount of the federal tax liability and subsequent tax deposit for the period. You can also apply the credit from previous check dates to a current liability in the same quarter. Credits from check dates in previous quarters can be claimed by completing amended quarterly federal employment tax returns. You'll need to weigh the benefit of amending the returns by assessing the cost or time involved in doing so and the amount of the refund you may receive.

The IRS does not allow employers to take the Work Opportunity Tax Credit (WOTC) and the HIRE Act social security tax credit for the same employees. If the employee is also eligible for the WOTC you should figure out which credit will be more beneficial to you.

The Business Tax Credit for 2011

Another provision of the HIRE Act allows a maximum credit of \$1000 against the employer's business income taxes for each qualified individual. The business tax credit and social security tax relief are separate, and employers can claim both. Even if you didn't take advantage of the payroll tax credit for qualified individuals on your employment tax returns in 2010, you can still claim the business tax credit into 2011. Also, if any employees qualified for both HIRE Act and WOTC credits in 2010, and you didn't apply the HIRE Act social security payroll tax credit, you can apply the WOTC credit along with the business tax credit available in the HIRE Act.

The business tax credit was designed to provide an incentive for businesses to continue to employ previously out-of-work individuals for at least one year. It is applicable for each qualified employee who is employed for at least 52 consecutive weeks and whose wages during the second 26 weeks are at least 80% of the wages during the first 26 weeks. The amount of the credit is the lesser of \$1000 or 6.2% of the federal income taxable wages paid to the qualified employee during the year.

For more information...

Because taxes are *never* simple, you may need more specific information regarding how these credits are reported on business and employment tax returns and how they relate to other tax credits, such as the FICA tip credit for restaurant employers. Contact your tax professional and/or payroll service provider for questions related to your specific circumstances. The IRS also provides a number of publications regarding the HIRE Act, WOTC and tax return instructions at www.irs.gov.

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