

HIRE Act Summary

On March 18, 2010, President Obama signed the Hiring Incentive to Restore Employment (HIRE) Act to provide incentives to hire unemployed workers through a limited “tax holiday” of the **employer’s share** of the **Social Security** tax (6.2% on the first \$106,800 in wages) on qualified employees’ wages paid through December 31, 2010.

The goal of the act is to provide additional funds for employers to hire individuals who have been out of work to fill new positions and further stimulate the recovering economy.

Effective Dates

- Qualified employees who begin work after February 3, 2010 and before January 1, 2011
- Wages paid to qualifying employee on and after March 19, 2010

Qualified Employees

- Individual not employed more than 40 hours for the 60 days ending on their start date
 - An IRS affidavit (Form W-11) must be signed by the employee certifying to the above under penalty of perjury.
- Employee cannot be hired to replace another employee *unless the other employee left employment voluntarily or was terminated for cause.*
- Employee cannot be related to the employer or anyone owning 50% or more of the stock or other capital of the employer.
- Rehired employees do qualify (if they meet the same criteria)
- New position may be part-time.

Qualified Employers

- Any employer other than the United States, a state or local government or any government instrumentality.
- Institutions of higher education ARE qualified employers.
- Taxable businesses and tax-exempt organizations qualify

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Special Considerations

- Employers cannot take the Social Security tax relief AND the Work Opportunity Tax Credit (WOTC) for the same individual.
 - The Work Opportunity Tax Credit (WOTC) is a Federal tax credit incentive to private-sector businesses for hiring individuals from twelve target groups who have consistently faced significant barriers to employment.
 - Employers can opt out and elect not to have the Social Security tax relief apply for any given employee if the WOTC credit is more advantageous.
- There is no tax exemption on the **employer portion** of **Medicare** taxes (currently 1.45% with no wage limit.)
- The “holiday” does not apply to any other taxes, including the **employee portion** of Social Security/Medicare taxes, Federal Unemployment Tax (FUTA), State Unemployment (SUTA), or any other state-related payroll tax. All must be paid.
- The employee will see no impact on their net pay as only the **employer portion** is exempt.

Implementation

- Payroll systems must be reprogrammed to properly calculate the employer’s liability.
- Beginning in the second quarter, a new line item will be added to Form 941, Employers quarterly Federal Tax Return, to report the exempted wages and employer tax reduction.
- Special considerations for first and second quarter of 2010
 - The tax became effective before first quarter ended
 - Employer must deposit full employer share of social security tax for wages paid in the first quarter and report it on the first quarter form 941.
 - The amount that would have qualified for the social security tax reduction in **first quarter** can be taken on the **second quarter** form 941.
- The 2010 Form W-2 will have a Box 12 code “CC” added for reporting the HIRE Act exempt wages and tips for qualified employees.

Additional income tax credit

In addition to the payroll credit, a different provision of the Act gives the employer an **income tax credit** of up to \$1,000 to retain each qualified individual for at least 52 consecutive weeks.

- The credit is the lesser of \$1,000 or 6.2% of the wages paid to the qualified individual during the 52 weeks. Therefore, any employee paid \$16,130 or more will qualify for the full credit.
- To ensure continuous employment, wages in the second 26-week period must be at least 80% of the wages received in the first 26 weeks.
- The credit will be claimed on the employer’s 2011 income tax return.
- The business income tax credit and the Social Security tax relief are separate, and employers can claim both of them for the same employee.