

This spring, President Obama signed the "Hiring Incentives to Restore Employment Act" (HIRE Act, P.L. 111-147) into law. The Act includes a provision that encourages companies to hire previously unemployed workers by exempting employers from paying the 6.2% OASDI portion of the employer's share of Social Security taxes on certain wages, along with the opportunity to obtain a one-time tax credit.

HIRE Act - "Jobs Bill"

This law allows employers to lessen their tax burden by:

- Eliminating the 6.2% OASDI employers portion of Social Security tax on eligible hires up to the \$106,800 Social Security wage base; and
- Allowing a one-time business tax credit of up to \$1,000 per each eligible employee retained for 52 consecutive weeks to be claimed, for calendar-year employer, on their 2011 income tax return.

Payroll Tax Exemption

For businesses wishing to take advantage of the payroll tax exemption:

- An updated Form 941, released in June, accounts for the tax credits beginning with the second quarter form. Credits for first quarter wages will be reported on the second quarter form;
- Federal deposit amounts can be reduced throughout succeeding quarters, or eligible employers may wait to claim the credit on their Form 941 return.
- There is a standard affidavit for employers to use for eligible employees; this affidavit must be retained by the employer and is not filed with the IRS.

Business Credit for Retention of Certain Newly Hired Individuals for 2010

A business tax credit can be claimed by employers for qualified individuals who are hired after February 3, 2010, and before January 1, 2011, and who stay with the employer for 52 consecutive weeks. The credit is the lesser of \$1,000 or 6.2% of wages paid by the employer to the retained worker during the 52 consecutive week retention period. This retention period effectively means that the credit can be first claimed on returns for years ending after January 2011.

Only new employees meeting the following requirements qualify for the credit; they must:

- begin employment with a qualified employer after February 3, 2010, but before January 1, 2011;
- not have been employed for more than 40 hours during the 60 days prior to being hired;
- sign an affidavit attesting to the employer that he/she had not been employed in the previous 60 days, or was employed for no more than 40 hours total during that 60 days;
- not be hired to replace another employee unless the previous employee was separated from employment voluntarily or for cause; and
- not be a family member of the business owner.

Additionally, for the employer to claim the credit, wages paid to the employee during the last 26 weeks of the 52 week retention period must equal 80% of wages paid during the first 26 weeks of the retention period.

Please be advised that the Social Security tax exemption can not be taken in conjunction with the Work Opportunity Tax Credit (WOTC). If the employer chooses to take the WOTC on a qualified worker, they cannot also take the Social Security tax exemption.

Should you wish to discuss the HIRE Act or how any of the parameters of this law may impact your business, please contact a Witt Mares professional who will be happy to assist you.

