



Federal Government Subsidy for Businesses: IRS Releases Draft Employee Affidavit for HIRE Act Tax Benefits

The IRS has issued a draft of a new tax form that businesses must get new employees to fill out if the business wishes to claim tax breaks under the Hiring Incentives to Restore Employment (HIRE) Act. The HIRE Act provides a 6.2-percent payroll tax exemption to employers who hire unemployed workers. It also provides a general business tax credit, up to \$1,000 per worker, for employees who are retained full-time for 52 weeks.

These tax breaks are allowed for a new employee who has not worked more than 40 hours during the 60-day period before he/she starts working for the business. In other words, the new employee must have been basically out of work for two months. The IRS issued draft Form W-11, HIRE Act Employee Affidavit, for employers to obtain a statement from employees, confirming the employee's unemployed status. Employees must sign the form under penalties of perjury. Employers may use a similar statement that provides the same information. The form's instructions do not discuss providing the form to the IRS. **For a sample statement,** (<http://largeandgilbert.com/pdf/w11.pdf>)

The IRS has posted Questions and Answers on its website to explain the new tax benefits.

The Questions and Answers can be found at <http://www.irs.gov/businesses/small/article/0,,id=220745,00.html> (please copy and paste this link into your internet browser). Employers can receive a payroll tax exemption from the employer's 6.2-percent share of Social Security (FICA) taxes on all wages paid to qualified employees from March 19, 2010, through December 31, 2010. Qualified employees must begin employment after February 3, 2010, and before January 1, 2011.

The exemption applies to the hiring of both new employees *and former employees who were previously laid off*. It does not apply to an employee hired to replace an existing worker, unless the existing worker terminated employment voluntarily or for cause.

Businesses can claim the exemption on Form 941, Employer's Quarterly Federal Tax Return, beginning with the second quarter of 2010. For wages paid during the first quarter (March 19-31, 2010), the employer can claim the exemption on Form 941 for the second quarter.

The new hire retention credit is the lesser of \$1,000 or 6.2 percent of wages paid to an employee retained for 52 consecutive weeks. The employee's pay cannot decrease significantly in the second half of the 52-week period. Employers will claim the credit on their 2011 income tax returns and can carry the credit forward but not back.

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