# Federal Law Incents Employers to Hire Unemployed Workers

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With the nation focused on healthcare insurance reform, a recently enacted federal law that provides economic incentives to employers that hire the unemployed appears to have gone unnoticed by many.

On March 18, 2010, President Barack Obama signed into law the Hiring Incentives to Restore Employment Act (the "HIRE Act"). The HIRE Act provides cash revenues in the form of payroll tax exemptions and increased tax credits to employers who hire qualified individuals.

To qualify for the incentives, a company needs to hire an individual after Feb. 3, 2010 and before Jan. 1, 2011. The individual must certify in an affidavit under penalties of perjury that he/she has not been employed for more than 40 hours during the 60-day period preceding the date of hire. Also, the incentive will not apply if the individual is hired to replace another employee, unless the former employee was fired for cause or voluntarily resigned. Thus, the company cannot layoff a worker, hire a replacement and receive the incentives.

There are two forms of incentives. First, a company that hires an individual under the qualifying scenario above will receive a Social Security tax exemption for wages paid after March 18 and before Jan. 1, 2011 to an employee who will not exceed a $106,800 Social Security wage base. The 6.2 percent employer Social Security tax exemption applies for all qualifying workers without limit.

While the employer will be exempt during this period from paying its share of the Social Security tax, the employee share will still be withheld from each paycheck and there will be no affect on the employee's future Social Security benefits. Because the exemption is based on the amount of wages paid to the employee during this period, the hope is that employers will be motivated to hire employees sooner, rather than later.

The second incentive is in the form of an income tax credit for the employer and intended to incentivize the employer to retain the worker once hired. For each qualifying worker hired after Feb. 3, 2010 *and employed for at least 52 consecutive weeks*, the employer will receive the <u>lesser</u> of $1,000 or 6.2 percent of the wages paid to the worker during the 52-week period. One catch is that the wages paid to the worker during the last 26 weeks must be at least 80 percent of the wages paid during the first 26 weeks.

The exemption and credit together may not be lucrative enough to result in the creation of many new jobs because, together, they will amount to a little over $7,500 maximum. However, the HIRE Act will increase the cash flow to employers who have hired unemployed workers which, in turn, may result in increased spending by both the company and the gainfully employed worker.

If your company is hiring a qualified unemployed worker, be sure to obtain the requisite affidavit from the new employee to support your claim to the tax credit and exemption.

Should you have any questions about the HIRE Act, please feel free to contact the author Claudia D. Orr or any member of Plunkett Cooney's Labor and Employment Practice Group. To review a practice group directory click here.