

Schenck Tax Central

Timely Updates from Schenck SC

More Guidance on the HIRE Act

4/29/10

Under the HIRE Act, a qualified employer is exempted from the 6.2% OASDI/social security tax exemption on wages paid to previously unemployed new hires. The Social Security tax exemption could be available for workers you have hired after February 3, 2010, as long as the worker did not work more than 40 hours during the 60 days prior to their hire date.

Qualified Employees

The employees that would qualify are:

- Newly graduated individuals just entering the job market,
- Employees being rehired by the same employer after a 60-day period,
- Employees replacing an existing employee who quit or was terminated for cause
- Employees hired into a newly created position

The employee cannot be a relative of the owner and cannot have worked more than 40 hours in the prior 60 days.

The IRS has not released further guidance on seasonal employees who were laid off at the end of the 2009 season and are being or will be called back for the 2010 season. The IRS is slowly releasing guidance. If you are a seasonal employer, contact Amy Bradley, CPP, at 920-996-1314 or amy.bradley@schencksc.com for the most current information.

Affidavit

IRS Form W-11 Hiring Incentives to Restore Employment (HIRE) Act Employee Affidavit is the form eligible workers need to sign under penalty of perjury that they did not work more than a total of 40 hours in the 60 days prior to the date indicated in the "First date of employment" field. Forms W-11 must be received by the employer before the due date of Form 941 where the Social Security tax credit was first taken. Example: if an eligible worker hired on May 1st gave their employer Form W-11 on June 1st, the employer can take the Social Security tax credit with the 2nd quarter Form 941. But if this worker did not give their employer Form W-11 until August 5th, the employer could not include the Social Security tax credit with the 2nd quarter Form 941. The employer would then need to file Form 941-X to obtain the Social Security tax credit.

Deposits & Reporting

For wages paid to eligible workers from March 19 to March 31, the applicable Social Security tax credit can reduce a second quarter federal tax deposit. This Social Security tax credit will be calculated on Form 941, lines 12d & 12e, as part of reconciliation of payments and credits to total tax liability. Form 941, line 12c, should indicate the number of employees who were first paid exempt wages between March 19 and March 31.

For exempt wages paid on or after April 1, the Social Security tax credit will reduce the federal tax liability. Therefore, if an employer would previously have had a federal payroll tax liability of \$105,000, with the Social Security tax credit of \$8,000 from the HIRE Act, the net Federal tax liability becomes \$97,000. This payment would not be due the next banking day, but on the normal semi-weekly due date (i.e., Wednesday or Friday). The Social Security tax credit will be calculated on Form 941, lines 6c & 6d, reducing total taxes due. Line 6a on Form 941 will indicate the number of employees who were first paid exempt wages during the current quarter and line 6b will be a count of all employees being paid exempt wages during the current quarter.

These exempt wages will be reported on the employee's Form W-2 in box 12 code CC. The amount indicated for code CC will be the exempt wages paid from March 19 to December 31.