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THE TAX LAWYER

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Hire By Year-End For Tax Breaks

Hiring employees (as opposed to independent contractors) can bring big liabilities, but it can also bring tax breaks. For the independent contractor vs. employee distinction, see [Miranda-Like Warnings To Independent Contractors?](#) and [White House On Contractor vs. Employee: There Will Be Blood](#). But it's unlikely you can run your business exclusively with independent contractors, so odds are you've got—and need—employees.

If you act before year end, federal income and employment tax benefits come thanks to the [Hiring Incentives to Restore Employment Act](#), also known as the HIRE Act (don't you just love the catchy names Congress uses for its handiwork?). Qualifying new hires must meet these tests.

- Start employment with you after February 3, 2010 and before January 1, 2011.
- Certify by signed affidavit under penalties of perjury that they haven't been employed for more than 40 hours during the 60-day period ending when they start with you. The IRS has a simple form ([Form W-11](#)) for this certification. Incidentally, the IRS has made clear that a worker can qualify if they were self-employed before you hired them—they just can't have been "employed" by someone else. See IRS [FAQs About Qualified Employees](#). Since being an independent contractor is being self-employed, persons who were independent contractors before you hire them still qualify.

What About Kids? Minors are OK and they too can sign the IRS [affidavit](#). See IRS [FAQs About Qualified Employees](#).

- Not replace any of your ***other*** employees, except ones leaving voluntarily or for cause.
- Not be related to you.

If your new hires meet these hurdles you get two benefits.

Social Security Break. You don't pay the employer's 6.2% of the Social Security taxes on wages paid to them in 2010. The IRS has posted [frequently asked questions](#) about who qualifies and the details of this payroll tax holiday.

\$1,000 per Employee Income Tax Credit. Plus, you can qualify for a \$1,000 income tax credit for each qualifying new hire. To get this benefit, the worker must remain employed for 52 consecutive weeks, and his wages during the last 26 weeks must equal at least 80% of his wages for the first 26 weeks. See IRS [FAQs About the Credit](#).

For more guidance on these new hire tax benefits, see [HIRE Act: Questions and Answers for Employers](#) and [2010 HIRE Act: Tax Breaks for Small Business](#).

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