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THE TAX LAWYER

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### Mere Days Remain For HIRE Act Tax Benefits

It's easy to get lost in the drama of DC's hottest celebrity death match. Will the [Bush tax cuts](#) survive? Will the Democrats disconnect them from life support? See, [Year-End Tax Rates: Sanctimonious Santa Or Dastardly Deed?](#) However this [class warfare](#) soap opera comes out, don't lose sight of the OTHER tax items linked to year end.

The window is closing, and closing fast. As we've noted, the cleverly named "[HIRE Act](#)," Hiring Incentives to Restore Employment Act, holds out two tax treats if you're in business and make qualifying hires by year end. For more details, see [Hire By Year-End For Tax Breaks](#).

Just in time for Santa, the IRS has released a draft Form 5884-B, New Hire Retention Credit. Get Form 5884-B [here](#).

The HIRE Act carries two valuable tax incentives for employers boosting payroll this year:

1. Exemption from the employer's 6.2% share of Social Security tax; and
2. A \$1,000 per employee federal income tax credit.

Qualifying new hires must:

- Start employment with you after Feb. 3, 2010 and before Jan. 1, 2011.

- Certify under penalties of perjury they haven't been employed for more than 40 hours during the prior 60-day period. Use [IRS Form W-11](#). Since being an independent contractor is being self-employed, persons who were independent contractors before you hire them still qualify. 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.

The payroll tax relief applies only for wages paid to qualified individuals from Mar. 19, 2010 and ending Dec. 31, 2010. Still, at 6.2%, savings can be big. And in addition to the payroll tax exemption, the HIRE Act provides employers with an up-to-\$1,000 tax credit per qualifying employee.

The new [IRS Form 5884-B](#) requires employers to enter the worker's Social Security number, employment date, wages during the first 26 weeks of consecutive employment, and wages during the second 26 weeks of consecutive employment.

**Temporary Absence or Rehires.** The IRS ruled in [Information Letter 2010-0198](#) that someone already a qualified employee who experiences a short term or temporary interruption in work continues to be qualified unless the interruption is a termination of employment. If terminated, he will have to (again) meet qualified employee requirements when rehired. See [HIRE Act: Questions and Answers for Employers](#).

For a former employee to qualify, his employment must be terminated so he can begin employment after Feb. 3, 2010 and before Jan. 1, 2011. Plus, he must be employed for less than 40 hours during the prior 60 days. The former employee cannot re-qualify unless he hasn't been employed for more than 40 hours during the preceding 60-day period.

For more, see [HIRE Act: Questions and Answers for Employers](#).

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