



PAYROLL CURRENTLY

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Senate Passes Job Creation Bill Eliminating Employer Share of Social Security Tax for New Hires in 2010

On February 24, the U.S. Senate passed H.R. 2847, the Hiring Incentives to Restore Employment (HIRE) Act, by a vote of 70-28. The bill would create a limited social security tax “holiday” for the employer share of social security tax on wages paid to previously unemployed new hires and a business tax credit if those employees are employed for at least a year. The aim of the bill is to free up funds for employers to hire employees who have been out of work and further stimulate the uncertain economy. At press time, the House of Representatives had not yet taken up a version of the bill containing these provisions.

Social security tax ‘holiday’

The bill provides relief from the employer share of social security tax, which is 6.2% of covered wages, on wages paid by a “qualified employer” to a “qualified individual” for employment beginning on the day after the bill is enacted into law and ending on December 31, 2010. The relief from the employer share of social security tax applies to services performed in a trade or business of a qualified employer or in furtherance of activities related to the tax-exempt purpose or function of a tax-exempt entity.

Employee share still must be withheld; no Medicare exemption. The social security tax “holiday” does not apply to the employee share of the tax, which still must be withheld and deposited by the employer. The “holiday” also does not apply to either the employer or employee share of Medicare tax.

Government employers other than colleges not included

A qualified employer is any employer other than the United States, a state, a local government, or any government instrumentality. However, public institutions of higher education are qualified employers. Also, qualified employers can elect to not have the social security tax “holiday” apply. The IRS will provide the manner for making such an election.

Qualified individuals must have been unemployed for 60 days

A qualified individual is any individual who:

- begins employment with a qualified employer after February 3, 2010, and before January 1, 2011;
- certifies by signed affidavit, under penalties of perjury, that the individual has not been employed for more than 40 hours during the 60-day period ending on the day the individual begins work for the qualified employer;
- is not employed by the qualified employer to replace another employee unless the other employee left employment voluntarily or was terminated for cause, and
- is not related to the qualified employer or to anyone owning 50% or more of the stock or other capital of the employer.

No double-dipping with WOTC

A qualified employer may not receive the work opportunity tax credit (WOTC) on any wages paid to a qualified individual during the one-year period beginning when the



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individual was hired, if those wages qualify the employer for the social security tax “holiday,” unless the employer elects not to have the social security tax relief apply with respect to that individual.

👉 APA LOOKS TO EASE PAYROLL BURDEN – If the HIRE Act is enacted into law in the form passed by the Senate, there are obvious implementation challenges for employers, service providers, and software companies, not the least of which is an immediate effective date that may fall in the middle of a payroll period, leading to tax relief that applies to some, but not all, wages of a qualified individual. For more on the APA’s efforts – working with Congress and the IRS – to reshape the HIRE Act’s provisions and deal with its ramifications for tax reporting and depositing, see [“Inside Washington” for March](#).

Separate business tax credit

A different provision of the bill would give an employer a \$1,000 credit against its business income taxes for each qualified individual who is employed by the employer for at least 52 consecutive weeks and receives wages for such employment during the last 26 weeks of this period that are at least 80% of the wages the individual received during the first 26 weeks of the period.