

## 'HIRE' Act Signed Into Law

*Designed to Provide Hiring Incentives for Employers,  
Reduce Unemployment and Stimulate the Economy*

By Bennett Pine



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Hospitality industry employers should be aware of recently enacted significant tax breaks designed to promote job growth. The Hiring Incentives to Restore Employment (HIRE) Act, signed into law by President Obama on March 18, 2010, provides employers with a Social Security payroll tax exemption for employees hired between February 3, 2010, and January 1, 2011, and provides business tax credits for retaining the

workers.

### **Payroll Tax 'Holiday' For New Hires**

The HIRE Act's centerpiece is a tax break for private sector employers estimated at \$13 billion. Under the HIRE Act, a qualified employer's 6.2 percent Old Age, Survivors and Disability insurance Social Security (FICA) tax liability is forgiven for qualified employees who commence work any time after February 3, 2010, and before January 1, 2011, and who affirm that they were unemployed or were employed for a period of 40 hours or less during the 60-day period prior to the commencement of employment.

Based upon the FICA wage cap of \$106,800, the maximum value of this tax forgiveness incentive per qualified employee is \$6,621.

### **Tax Credit For Employee Retention**

In addition to the FICA payroll tax exemption, the HIRE Act provides a business tax credit for each employee who

becomes employed under HIRE and who remains employed for at least 52 weeks. The tax credit to the qualified employer would be equal to the lesser of \$1,000 or 6.2% of the wage paid to the new employee during the 52 consecutive week period.

### **Who Is Eligible**

The tax benefits described above apply to all profit and tax-exempt non-governmental (except public colleges and universities) businesses that are adding positions to their payrolls, including agricultural employers. Household employees, new employees related to the employer or shareholders owning more than 50 percent of the business are not eligible for the benefits.

Individuals who were employed more than 40 hours during the 60-day period prior to commencing employment or who are hired to replace another employee (unless that employee voluntarily quit or was terminated for cause) also do not qualify for the HIRE incentives.

### **Conclusion**

Employers are encouraged to develop coordinated efforts among their human resources, payroll, benefits, financial and/or tax functions to track all employment vacancies and new hiring activity and to determine whether they are eligible to take advantage of the valuable tax benefits of the HIRE Act.

*Bennett Pine is chair of Anderson Kill & Olick's employment & labor group. Mr. Pine has broad-based labor and employment law experience and regularly plays a "hands-on" role offering "preventative maintenance" advice and counseling to employers in the full range of legal issues affecting the workplace. Mr. Pine can be reached at [bpine@andersonkill.com](mailto:bpine@andersonkill.com)*