

## **"Show Me the Money". . . President Signs the HIRE Act**

On March 18, 2010, President Obama signed the \$18 billion jobs bill, the Hiring Incentives to Restore Employment Act (the HIRE Act), into law. This legislation provides two tax benefits to employers for hiring workers who currently are unemployed or are only working part time.

First, the Act grants tax breaks to businesses which hire workers who have been unemployed or who have been working part time for 60 days or more. Specifically, employers who hire such un- or "underemployed" workers after February 3, 2010 and before January 1, 2011 are exempt from making their share of Social Security payroll contributions for these employees for 2010. (Based on the FICA wage cap of \$106,800, the maximum value of this incentive is \$6,621, or 6.2 % of the wages paid in 2010 to any qualified employee.) This incentive will have no effect on the employees' future Social Security benefits, as employers still must withhold each employee's share of Social Security taxes, as well as applicable income, Medicare and other payroll taxes.

Second, these employers also receive a one-time business tax credit of the lesser of \$1,000 or 6.2 % of the wages paid to a new employee for 52 weeks for retaining the new hire for at least 52 consecutive weeks. The new employee must be paid an amount equal to at least 80 % of his/her first 26 weeks of wages during the last 26 weeks of the 52 consecutive week qualifying period in order for the employer to qualify for this "retention credit." The employer then can take advantage of this tax credit on their 2011 income tax return.

Note that employers can take advantage of these two tax benefits regardless of whether the positions for which they are hiring are part or full time. For-profit as well as non-profit employers are eligible. Federal, state and local government employers are not.

To qualify for these incentives, employers also must obtain an affidavit from each eligible new hire certifying that they were unemployed during the preceding 60 days before beginning work or that they worked fewer than a total of 40 hours for another employer during this preceding 60-day period. (The IRS is creating a form employers can use for this purpose.) In addition to this requirement, the eligible new hire cannot displace an existing employee, unless the existing employee voluntarily quit or was separated for cause. The eligible new hire also cannot be "related" to the hiring employer as defined in the U.S. Tax Code (immediate family members or those who directly or indirectly own more than 50 % of the employer).

If you have any questions relating to this alert or any other Labor and Employment law issue, please feel free to contact [Kyle Young](#), [Kara Shea](#) or your own [Labor and Employment](#) law attorney at Miller & Martin.

*The opinions expressed in this bulletin are intended for general guidance only. They are not intended as recommendations for specific situations. As always, readers should consult a qualified attorney for specific legal guidance. Should you need assistance from a Miller & Martin attorney, please call 1-800-275-7303.*

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**ATLANTA**

1170 Peachtree Street,  
N.E., Suite 800  
Atlanta, GA 30309-7706

**CHATTANOOGA**

832 Georgia Avenue,  
Suite 1000,  
Volunteer Building  
Chattanooga, TN 37402-2289

**NASHVILLE**

150 Fourth Avenue North,  
Suite 1200, One Nashville Place  
Nashville, TN 37219