First Financial Employee Leasing, Inc.

SPECIAL EDITION

May 2010 Issue 10

- **Affidavits must be completed and copies submitted to FFEL by June 15, 2010**
- **Clients must retain original forms**

In this issue:

Hiring Incentives to Restore Employment Act (HIRE)

On March 18, 2010 the Hiring Incentives to Restore Employment Act (HIRE) was enacted into law. This new law provides two major job creation incentives for employers who hire and retain qualified unemployed workers as follows:

1. **Payroll Tax Forgiveness**
   This incentive exempts the employer from their share of the 6.2% (OASDI) portion of FICA tax liability for any 2010 period beginning after the enactment of this legislation (March 18, 2010) as long as the qualified employee is employed in 2010. Employees must continue to make their contribution.
   Definition of a "Qualified employee":
   - Must start work after February 3, 2010 and before January 1, 2011
   - Must not have been employed for more than 40 hours during the 60 days before his/her start date
   - Must not replace a current employee (unless that employee was separated from employment voluntarily or for cause) *
   - Must not be related to the employer or directly or indirectly own more than 50% of the business
   - May be previously laid-off employees
   - May be part-time or less than full time employees

   The payroll tax forgiveness does not apply to wages paid in the first quarter of 2010. However, any amount that would have been allowed in the first quarter (i.e. wages on or after March 18, 2010) would be credited against the employer's OASDI liability for the second quarter. Beginning for new hire wages paid beginning April 1, 2010, the employer would take the OASDI forgiveness into account for regularly deposited payroll taxes.

   **The IRS will interpret the requirement that a qualified individual can replace an employee who was "terminated for cause" rather broadly to include reasons other than employee misconduct. This can include performance issues and other "facts and circumstances," as long as the employer did not terminate one employee in order to claim the social security tax relief by hiring the same individual or another employee to fill that position.*

2. **Retention Credit**
   Employers who employ employees who qualify for Payroll Tax Forgiveness and keep the new worker on their payroll for 52 consecutive weeks can receive a business tax credit via Section 38(b) business tax credit. The maximum amount of this credit with respect to each individual qualified retained worker is the lesser of $1.000 or 6.2% of the wages paid to the worker during the 52 week period. This credit is increased with respect to each qualified worker retained.
   - The new worker must be employed 52 consecutive weeks. A prorated credit for a shorter period is not allowed.
   - Domestics and workers eligible for a foreign earned income exclusion are not eligible
   - The tax credit will be available to most employers on the 2011 income tax return. It should be noted however, that the HIRE Act does not allow carry back of any unused Section 38 business tax credit that is attributable to the provision for retained workers.

   The Congressional Record makes it clear that an FFEL Client is entitled to the Retention credit.

This new law requires that the employer obtain an affidavit from each eligible employee certifying that he/she was unemployed during the 60 days before beginning work or worked less than a total of 40 hours for someone else during this 60 day period. The IRS has developed a Form W-11 for this purpose which can be found at http://www.irs.gov/pub/irs-pdf/fw11.pdf or at www.ffel.net under Resources/Client Forms. Payroll processors can provide Clients with a list of employees hired after February 3rd to assist in identifying eligible new hires.

FFEL has the ability to flag each eligible employee in our system. Once the required affidavit has been completed by the eligible employee, Clients should fax a copy (they retain the original) to their Payroll Processor who will then flag that employee's record to indicate their eligibility. Credits will appear on Client invoices on a quarterly basis.

Since FFEL cannot claim the new tax forgiveness until filing the second quarter employment taxes for 2010, employers will have until then to flag eligible employees. Clients with eligible employees hired during the first quarter of 2010 must submit a copy of the required form prior to the end of the second quarter of 2010.

Additional information on the HIRE Act can be obtained at:
http://www.irs.gov/businesses/small/article/0,,id=220745,00.html

FIRST FINANCIAL
EMPLOYEE LEASING, INC.
YOUR SILENT PARTNER

www.ffel.net
3745 Tamiami Trail
Pt. Charlotte, FL 33952
Tel: 941-625-7141 / 800-624-1805

Healthcare Update

The Healthcare Bill signed into law on March 23, 2010 by President Obama is legislation that is slated to cover millions of Americans who do not have health insurance and drive down the cost of insurance. It is a large part of the process. There is a reconciliation bill (sometimes referred to as the "fix it " bill) and also implementing regulations and guidance to be issued by the relevant federal agencies, including the Treasury, HHS and Labor. Here are some of the current Employer effects:

Small Business Tax Credits

Small employers with no more than 25 employees and average annual wages of less than $50,000 that purchase health insurance for employees will receive a tax credit.

Phase I (for tax years 2010 through 2013)
A tax credit of up to 35% of the employer's contribution toward the employee's health insurance premium if the employer contributes at least 50% of the total premium cost or 50% of a benchmark premium.

- The full credit will be available to employers with 10 or fewer employees and average annual wages of less than $25,000. The credit phases-out as firm size and average wage increases.
- Tax-exempt small businesses meeting these requirements are eligible for tax credits up to 25% of the employer's contribution toward the employee's health insurance premium.

Phase II (for the tax years 2014 and later)
Eligible small businesses that purchase coverage through the state Exchange will receive a tax credit of up to 50% of the employer's contribution toward the employee's health insurance premium if the employer contributes at least 50% of the total premium cost. The credit will be available for two years.

- The full credit will be available to employers with 10 or fewer employees and average wages of less than $25,000. The credit phases-out as firm size and average wage increases.
- Tax–exempt small businesses meeting these requirements are eligible for tax credits of up to 35% of the employer's contribution toward the employee's health insurance premium.

Reinsurance for Older Workers - Effective 90 Days after Enactment through January 1, 2014

The Act creates a temporary reinsurance program for employers providing health insurance coverage to retirees over age 55 who are not eligible for Medicare. This program will reimburse employers or insurers for 80% of retiree claims between $15,000 and $90,000. Payments from the reinsurance program will be used to lower the costs for enrollees in the employer plan.

Employer Mandates - January 1, 2014

More details will become available after adoption of the Reconciliation Bill

- An employer with more than 50 employees that does not offer coverage and has at least one full-time employee who receives a premium tax credit will be assessed a fee of $750 per full-time employee.
- An employer with more that 50 employees that offers coverage but has at least one full-time employee receiving a premium tax credit will be assessed the lesser of:
  - $3,000 for each employee receiving a premium credit or
  - $750 for each full-time employee
- Employers that impose a waiting period before employees can enroll in coverage will be required to pay $400 for any full-time employee in a 30-60 day waiting period and $600 for any employee in a 60-90 day waiting period.
- All employers that offer coverage to their employees must provide a free choice voucher to employees with incomes less than 400% of the federal poverty level whose share of the premium exceeds 8% but is less than 9.8% of their income and who choose to enroll in a plan in the Exchange. The voucher amount is equal to what the employer would have paid to provide coverage to the employee under the employer's plan and will be used to offset the premium costs for the plan in which the employee is enrolled. Employers providing free choice vouchers will not be subject to penalties for employees that receive premium credits in the Exchange.
- Employers with more than 200 employees must automatically enroll employees into health insurance plans offered by the employer. Employees may opt out of coverage.

Discrimination Based on Salary Prohibited - effective 6 months after enactment

Prohibits new group health plans from establishing any eligibility rules for health care coverage that have the effect of discriminating in favor of higher wage employees.