

December 2011

### **Hiring Incentives to Restore Employment (HIRE) Act**

Businesses that have hired new employees may qualify for a special tax credit.

The tax credit is worth 6.2% of wages paid to the employee, or \$1,000 (whichever figure is less).

The tax credit may be claimed by the employer on its 2011 business income tax return. So, for instance, an S Corporation would report the credit on its 2011 Corporate Tax Return (Form 1120S), due March 15, 2012.

To qualify for the **New Hire Retention Credit**, the following had to have taken place:

- **Your business hired a new employee who began employment after February 3, 2010, and before January 1, 2011;**
- **Your business retained the new employee for at least 52 consecutive weeks from the date of hire;**
- **The total wages you paid to the employee in the final 26 weeks of employment were at least 80% of total wages paid during the first 26 weeks of employment;**
- **The new employee was unemployed or employed for less than 40 hours during the 60 day period prior to when employment with your business began. The employee also needs to be willing to attest to this by signing Form W-11 (see attached);**
- **The new employee is not a family member related to the employer;**
- **The new employee does not own more than 50% of the business**

Attached please find Form W-11 – Hiring Incentives to Restore Employment (HIRE) Act Employee Affidavit. This needs to be completed and signed by the qualifying employee.

Please also find attached Form 5884-B – New Hire Retention Credit, plus instructions. This is the form that the employer completes to request the eligible credit.

Please feel free to contact us if you would like to discuss this further.

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# Hiring Incentives to Restore Employment (HIRE) Act Employee Affidavit

▶ **Do not send this form to the IRS. Keep this form for your records.**

**To be completed by new employee. Affidavit is not valid unless employee signs it.**

I certify that I have been unemployed or have not worked for anyone for more than 40 hours during the 60-day period ending on the date I began employment with this employer.

Your name \_\_\_\_\_ Social security number ▶ \_\_\_\_\_

First date of employment \_\_\_\_ / \_\_\_\_ / \_\_\_\_ Name of employer \_\_\_\_\_

Under penalties of perjury, I declare that I have examined this affidavit and, to the best of my knowledge and belief, it is true, correct, and complete.

Employee's signature ▶ \_\_\_\_\_ Date ▶ \_\_\_\_ / \_\_\_\_ / \_\_\_\_

## Instructions to the Employer

Section references are to the Internal Revenue Code.

### Purpose of Form

Use Form W-11 to confirm that an employee is a qualified employee under the HIRE Act. You can use another similar statement if it contains the information above and the employee signs it under penalties of perjury.

Only employees who meet all the requirements of a qualified employee may complete this affidavit or similar statement. You cannot claim the HIRE Act benefits, including the payroll tax exemption or the new hire retention credit, unless the employee completes and signs this affidavit or similar statement under penalties of perjury and is otherwise a qualified employee.

A "qualified employee" is an employee who:

- begins employment with you after February 3, 2010, and before January 1, 2011;
- certifies by signed affidavit, or similar statement under penalties of perjury, that he or she has not been employed for more than 40 hours during the 60-day period ending on the date the employee begins employment with you;
- is not employed by you to replace another employee unless the other employee separated from employment voluntarily or for cause (including downsizing); and

• is not related to you. An employee is related to you if he or she is your child or a descendent of your child, your sibling or stepsibling, your parent or an ancestor of your parent, your stepparent, your niece or nephew, your aunt or uncle, or your in-law. An employee also is related to you if he or she is related to anyone who owns more than 50% of your outstanding stock or capital and profits interest or is your dependent or a dependent of anyone who owns more than 50% of your outstanding stock or capital and profits interest.

If you are an estate or trust, see section 51(i)(1) and section 152(d)(2) for more details.



*Do not send this form to the IRS. Keep it with your other payroll and income tax records.*

**Paperwork Reduction Act Notice.** The Paperwork Reduction Act of 1980 requires that when we ask you for information we must first tell you our legal right to ask for the information, why we are asking for it, and how it will be used. We must also tell you what could happen if we do not receive it and whether your response is voluntary, required to obtain a benefit, or mandatory under the law. You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as stated in Code section 6103.

Our legal right to ask for information is Internal Revenue Code section 6001 and the purpose of the form is stated in the instructions. This collection of the information is required to obtain certain tax benefits.

If you do not retain this record or give fraudulent information, we may have to disallow certain exemptions and credits, and you also may be charged penalties and be subject to criminal prosecution. This could make the tax higher or delay any refund. Interest may also be charged.

The time needed to complete this form will vary depending on individual circumstances. The estimated average time is:

- Recordkeeping** . . . . 1 hr., 25 min.
- Preparing the form** . . . . 25 min.
- Learning about the law or the form** . . . . 24 min.

If you have comments regarding the accuracy of this time estimate or you have suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send the form to this address.

Please keep this notice with your records. It may help you if we ask you for other information. If you have any questions about the rules for filing and giving information, please call or visit any Internal Revenue Service office.

# New Hire Retention Credit

▶ **Attach to your tax return.**

▶ **Use Part II to list additional retained workers.**

Identifying number

A credit of up to \$1,000 is allowed for each retained worker. A retained worker generally is a qualified employee (see instructions) whose first 52 consecutive weeks of employment ended in the current tax year. However, the worker's wages (as defined for income tax withholding purposes) for the second 26 consecutive weeks must equal at least 80% of the worker's wages for the first 26 consecutive weeks.

**Part I New Hire Retention Credit for Retained Workers**

Use a separate column for each retained worker. If you need more columns, use Part II and include the totals on line 10.

		(a) Retained Worker No. 1	(b) Retained Worker No. 2	(c) Retained Worker No. 3
<b>1</b> Enter the retained worker's social security number . . . . .	<b>1</b>			
<b>2</b> Enter the first date of employment from the retained worker's Form W-11 or similar statement . . . . .	<b>2</b>	/ / 2010	/ / 2010	/ / 2010
<b>3</b> Enter the retained worker's wages for the first 26 consecutive weeks of employment . . . . .	<b>3</b>			
<b>4</b> Multiply line 3 by 80% (.80) . . . . .	<b>4</b>			
<b>5</b> Enter the retained worker's wages for the second 26 consecutive weeks of employment. If line 4 is larger than this amount, the qualified employee is not a retained worker and should not be listed on this form	<b>5</b>			
<b>6</b> Add lines 3 and 5 . . . . .	<b>6</b>			
<b>7</b> Multiply line 6 by 6.2% (.062) . . . . .	<b>7</b>			
<b>8</b> Maximum credit allowable . . . . .	<b>8</b>			
<b>9</b> Enter the <b>smaller</b> of line 7 or line 8 . . . . .	<b>9</b>			
<b>10</b> Add columns (a) through (c) on line 9 above and columns (a) through (c) on lines 9 of any attached Parts II . . . . .	<b>10</b>			
<b>11</b> Enter the total number of retained workers for whom you are receiving a credit on line 10 (see instructions) . . . . .	<b>11</b>			
<b>12</b> New hire retention credit from partnerships and S corporations (see instructions) . . . . .	<b>12</b>			
<b>13</b> <b>Current year credit.</b> Add lines 10 and 12. Partnerships and S corporations, report this amount on Schedule K; all others, report this amount on the applicable line of Form 3800 (e.g., line 1aa of the 2010 Form 3800) . . . . .	<b>13</b>			

Name(s) shown on return. Do not enter name and identifying number if shown on other side.

Identifying number

**Part II Continuation Sheet for Additional Retained Workers**

Use a separate column for each retained worker. Keep track of the number of workers listed by entering a number at the top of each column. For example, the first retained worker listed on the first attached Part II would be Retained Worker No. 4. If you need more columns, use additional copies of Part II. Include the totals from columns (a) through (c) of all lines 9 from all copies of Part II on Part I, line 10.

		(a) Retained Worker No.	(b) Retained Worker No.	(c) Retained Worker No.
1	Enter the retained worker's social security number . . . . .	1		
2	Enter the first date of employment from the retained worker's Form W-11 or similar statement	2	/ / 2010	/ / 2010
3	Enter the retained worker's wages for the first 26 consecutive weeks of employment . . . . .	3		
4	Multiply line 3 by 80% (.80) . . . . .	4		
5	Enter the retained worker's wages for the second 26 consecutive weeks of employment. If line 4 is larger than this amount, the qualified employee is not a retained worker and should not be listed on this form	5		
6	Add lines 3 and 5 . . . . .	6		
7	Multiply line 6 by 6.2% (.062) . . . . .	7		
8	Maximum credit allowable . . . . .	8		
9	Enter the <b>smaller</b> of line 7 or line 8 . . . . .	9		

		(a) Retained Worker No.	(b) Retained Worker No.	(c) Retained Worker No.
1	Enter the retained worker's social security number . . . . .	1		
2	Enter the first date of employment from the retained worker's Form W-11 or similar statement	2	/ / 2010	/ / 2010
3	Enter the retained worker's wages for the first 26 consecutive weeks of employment . . . . .	3		
4	Multiply line 3 by 80% (.80) . . . . .	4		
5	Enter the retained worker's wages for the second 26 consecutive weeks of employment. If line 4 is larger than this amount, the qualified employee is not a retained worker and should not be listed on this form	5		
6	Add lines 3 and 5 . . . . .	6		
7	Multiply line 6 by 6.2% (.062) . . . . .	7		
8	Maximum credit allowable . . . . .	8		
9	Enter the <b>smaller</b> of line 7 or line 8 . . . . .	9		

		(a) Retained Worker No.	(b) Retained Worker No.	(c) Retained Worker No.
1	Enter the retained worker's social security number . . . . .	1		
2	Enter the first date of employment from the retained worker's Form W-11 or similar statement	2	/ / 2010	/ / 2010
3	Enter the retained worker's wages for the first 26 consecutive weeks of employment . . . . .	3		
4	Multiply line 3 by 80% (.80) . . . . .	4		
5	Enter the retained worker's wages for the second 26 consecutive weeks of employment. If line 4 is larger than this amount, the qualified employee is not a retained worker and should not be listed on this form	5		
6	Add lines 3 and 5 . . . . .	6		
7	Multiply line 6 by 6.2% (.062) . . . . .	7		
8	Maximum credit allowable . . . . .	8		
9	Enter the <b>smaller</b> of line 7 or line 8 . . . . .	9		

# General Instructions

Section references are to the Internal Revenue Code.

## Purpose of Form

Use Form 5884-B to figure your new hire retention credit for retained workers (defined later). The new hire retention credit was enacted as part of the Hiring Incentives to Restore Employment (HIRE) Act on March 18, 2010. You may be able to claim this credit if you hired a qualified employee (defined later) after February 3, 2010, and before January 1, 2011, and the employee works for you for at least 52 consecutive weeks. The credit is the smaller of \$1,000 or 6.2% of the employee's wages (as defined for income tax withholding purposes) paid for the 52 consecutive week period. But you cannot claim the credit if the employee's wages decreased significantly during the second 26 weeks. The credit is claimed in the tax year in which the first 52 consecutive week period ends.



*You cannot claim the new hire retention credit unless the employee completes and signs Form W-11, Hiring Incentives to Restore Employment (HIRE) Act Employee Affidavit, or similar statement under penalties of perjury and is otherwise a qualified employee.*

The new hire retention credit is part of the general business credit claimed on Form 3800, General Business Credit. No portion of the unused business credit attributable to the new hire retention credit can be carried back to any tax year beginning before March 18, 2010. However, you may be able to carry the unused portion forward. See the Instructions for Form 3800 for details.

Taxpayers, other than partnerships and S corporations, whose only source of this credit is from a partnership or an S corporation are not required to complete or file this form. Instead, report this credit directly on Form 3800.

## Definitions

### Retained Worker

A "retained worker" is any qualified employee (defined below):

- Who was employed by you for a period of not less than 52 consecutive weeks and
- Whose wages (as defined for income tax withholding purposes) for the second 26 consecutive weeks of employment are equal to at least 80% of the employee's wages for the first 26 consecutive weeks of employment.

### Qualified Employee

A "qualified employee" is an employee who:

- Begins employment with you after February 3, 2010, and before January 1, 2011;
- Certifies by signed affidavit (Form W-11 or similar statement) under penalties of perjury, that he or she has not been employed for more than 40 hours during the 60-day period ending on the date the employee begins employment with you;
- Is not employed by you to replace another employee unless the other employee separated from employment voluntarily or for cause; and

- Is not related to you. An employee is related to you if he or she is your child or a descendant of your child, your sibling or stepsibling, your parent or an ancestor of your parent, your stepparent, your niece or nephew, your aunt or uncle, or your in-law. An employee is also related to you if he or she is related to anyone who owns more than 50% of your outstanding stock or capital and profits interest or is your dependent or a dependent of anyone who owns more than 50% of your outstanding stock or capital and profits interest.

If you are an estate or trust, see section 51(i)(1) and section 152(d)(2) for more details.

## Specific Instructions

### Line 11

Enter the total number of retained workers for whom you are receiving the new hire retention credit. For example, if you show the credit calculation for three employees in Part I and five employees in Part II, enter "8."

### Line 12

Enter any new hire retention credits from:

- Schedule K-1 (Form 1065), box 15 (code P); and
- Schedule K-1 (Form 1120S), box 13 (code P).

**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is shown below.

**Recordkeeping** . . . . . 9 hr., 34 min.

**Learning about the law or the form** . . . . . 40 min.

**Preparing and sending the form to the IRS** . . . . . 2 hr., 2 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.