

*Luongo &  
Associates, PC*

Certified Public Accountants

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May 20, 2010

Dear Payroll Clients,

On March 18, 2010, President Obama signed the *Hiring Incentives to Restore Employment* Act (the HIRE Act, also referred to as the “jobs bill”), which is intended to create new jobs and provide incentives to employers to hire the unemployed.

Although there are many issues that are dealt with in this bill, we are only going to concentrate on those areas that affect your quarterly payroll reports at this time.

**THIS ACT APPLIES TO ANY EMPLOYEE HIRED BETWEEN  
FEBRUARY 3, 2010 AND JANUARY 1, 2011.**

For all employees hired this year (after February 2<sup>nd</sup>) you must fill out and sign **EITHER** the “W-11” or the “WORKING EMPLOYEE AFFIDAVIT” upon hire.

- A.) If they have been unemployed or have NOT worked for anyone for more than 40 hours during the 60 day period ending on the date of employment, then they should fill out the “W-11”. You should then proceed to fill out the “NEW HIRE CHECKLIST & CALCULATOR”.
- B.) If they HAVE worked more than 40 hours during the 60 day period ending on the date of employment then they should fill out the “WORKING EMPLOYEE AFFIDAVIT”.

We will need a copy of these forms for **EVERY** employee you hire between 2/3/10 and 1/1/11 to complete your quarterly payroll reports. These forms should also be kept on record in the employee’s file.

If the employee meets the criteria on the enclosed “NEW HIRE CHECKLIST & CALCULATOR” you, the employer can save the matching 6.2% Employer Social Security Tax for 2010. This credit will be “applied for” on your quarterly 941 payroll reports for 2010.

If the worker is employed for 52 consecutive weeks, the employer could also receive an additional \$1,000 income tax credit or 6.2% of wages paid to the qualifying worker over the 52 week period, whichever is less. (Please note – wages during the last 26 weeks must be at least 80 percent of wages paid for the first 26 weeks). This credit will be taken with your 2011 business returns.

**ADDITIONALLY,**

**MARYLAND** has also passed the *Job Creation and Recovery Tax Credit*. This provides an employer a \$5,000 tax credit for each employee that they hire who at the time of hiring is on State unemployment insurance. The tax credit's appropriation is limited to \$20 million and will be administered on a first come, first served basis.

**FOR EMPLOYEE'S THAT MEET A CERTAIN CRITERIA:**

- 1.) Employee must be a Maryland resident hired between 3/25/10 & 12/31/10 and
- 2.) At the time of hire, individual must be receiving unemployment insurance benefits or have exhausted their benefits in the previous 12 months and not working full-time immediately preceding the date of hire.

**TO BE ELIGIBLE, EMPLOYERS MUST CERTIFY THAT:**

- 1.) They are conducting or operating a trade or business in Maryland.
- 2.) They file a Maryland tax return or are tax-exempt under 501(c) of the IRS Code.
- 3.) The employee for which they are seeking credit meet the above qualifying criteria.
- 4.) The position for which they are seeking credit:
  - a. is full-time, of indefinite duration and will remain filled for at least 12 months.
  - b. is a newly created position or was vacant for a period of at least 6 months at the time it was filled.
  - c. was not created through a change in ownership of a trade or business.
  - d. was not created as a result of an employment function being contractually shifted from one business entity to another.
  - e. did not displace an existing employee.

If the position for which they are seeking credit was created through a consolidation, merger, or restructuring, the position is a new job for the organization in the State of Maryland.

The employer must certify each employee with *The Department of Labor, Licensing and Regulation (DLLR)* by submitting an online application. Go to [www.dllr.maryland.gov/](http://www.dllr.maryland.gov/) to apply. A copy of a sample application is attached for your review. A copy of the required certification MUST be filed with the employer's income tax return so you MUST get us a copy of this certification.

**SAMPLE - Job Creation and Recovery Tax Credit  
Employer Application**



Control Number (For Agency Use only)	<b>APPLICANT INFORMATION</b>	Date
		Date Received (For Agency Use only)
<b>EMPLOYER INFORMATION</b>		
Employer Name (Company)	Employer Address, Telephone number & e-mail address	Employer Federal ID Number (EIN)
Are you conducting a trade or business in the State of Maryland and filing Maryland income tax returns? Yes ___ No ___		
Are you an organization operating in the State of Maryland that is exempt from taxation under § 501(c) of the Internal Revenue Code? Yes ___ No ___		
How many qualified positions are you seeking credit for? _____ You must complete a separate form for each position for which you are seeking credit.		
<b>QUALIFIED EMPLOYEE INFORMATION</b>		
Please provide the following information regarding the individual hired into the position for which you are seeking credit:		
1. Name		
2. Social Security Number		
3. Date of Hire		
4. Position		
5. Date wages first paid		
6. Hourly wage/salary		
7. Was this individual collecting unemployment insurance benefits from the State of Maryland at the time of hire? Yes ___ No ___		
8. If you responded "No" to # 7, had this individual exhausted unemployment insurance benefits within twelve (12) months of the date of hire? Yes ___ No ___		
9. Is this individual a Maryland resident who has shown evidence of Maryland residency? Yes ___ No ___		
10. Was the individual working full time immediately preceding the date of hire? Yes ___ No ___		
<b>QUALIFIED POSITION INFORMATION</b>		
Please provide the following information regarding the position for which you are seeking credit:		
1. Is the position full time? Yes ___ No ___		
2. Is the position located in the State of Maryland? Yes ___ No ___		
3. Does the position require the services of an employee for an indefinite duration without interruption for a period of twelve (12) months or more? Yes ___ No ___		
4. Is the position newly created? Yes ___ No ___		
5. If the position is not newly created, was it vacant for a period of at least six (6) months at the time it was filled? Yes ___ No ___		
6. Was the position created through a change in ownership of a trade or business? Yes ___ No ___		
7. Was the position created through a consolidation, merger or restructuring? Yes ___ No ___		
8. If you responded, "Yes" to # 7, was the position a net new job for your organization in the State of Maryland? Yes ___ No ___		
9. Was the position created as a result of an employment function being contractually shifted from one business entity to another business entity? Yes ___ No ___		
10. Was an existing employee displaced in order to create this position? Yes ___ No ___		
I certify under penalty of perjury that this information is true and correct to the best of my knowledge. I understand that the information above may be subject to verification.		
Employer or Representative Signature	Date	

# WORKING EMPLOYEE AFFIDAVIT

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I certify that I **HAVE** been employed for 40 hours or more during the 60-day period ending on the date I began employment with this employer.

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YOUR NAME

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SOCIAL SECURITY NUMBER

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NAME OF EMPLOYER

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FIRST DATE OF EMPLOYMENT

All employee's hired between 2/3/2010 and 1/1/2011 should complete either this form **OR** form W-11 from the IRS. These forms should be complete prior to employee beginning work and should be kept on record in the employee's file.

## 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(j)(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.*

All employee's hired between 2/3/2010 and 1/1/2011 should complete either this form OR "WORKING EMPLOYEE AFFIDAVIT". These forms should be complete prior to employee beginning work and should be kept on record in the employee's file.

## NEW HIRE CHECKLIST & CALCULATOR

Complete the following questionnaire to determine whether your new employee qualifies you, the employer to receive the FICA credit

**THIS FORM WILL NEED TO BE SENT TO YOUR QUARTERLY PREPARER FOR ALL NEW HIRES BETWEEN 2/3/10 and 1/1/11.**

EMPLOYEE NAME	SOCIAL SECURITY NUMBER
STREET ADDRESS	DATE OF HIRE
CITY, STATE AND ZIP	EMPLOYER NAME

	YES	NO
1. Was the employee hired after 2/3/2010?	<input type="checkbox"/>	<input type="checkbox"/>
2. Was the employee unemployed for the previous 60 days, or worked less than 40 hours (total) in the previous 60 days?	<input type="checkbox"/>	<input type="checkbox"/>
3. Has the employee signed an affidavit attesting to the unemployment test above? (Form W 11)	<input type="checkbox"/>	<input type="checkbox"/>
4. Was the employee hired before 1/1/2011?	<input type="checkbox"/>	<input type="checkbox"/>
5. Is the employee unrelated to the business owner? (see below)	<input type="checkbox"/>	<input type="checkbox"/>
6. Was the employee hired to replace another employee (except those who left voluntarily or were terminated for cause)?	<input type="checkbox"/>	<input type="checkbox"/>

Questions 1-5 must be "YES", question 6 must be "NO" for the employee to qualify for the FICA exemption and the new hire credit.

<b>The following individuals do NOT qualify for the FICA exemption</b>
(1) A child or a descendant of a child (of the taxpayer).
(2) A brother, sister, stepbrother, stepsister, stepfather, or stepmother (of the taxpayer).
(3) The father or mother, or an ancestor of either (of the taxpayer).
(4) A son or daughter of a brother or sister of the taxpayer.
(5) A brother or sister of the father or mother of the taxpayer.
(6) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law (of the taxpayer).

**DON'T FORGET TO VISIT DLLR WEBSITE TO REGISTER  
FOR YOUR MARYLAND TAX CREDIT**

# 2010 HIRE ACT, FICA CREDIT WAIVER

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I certify that I have been made aware of the HIRE ACT credit by Luongo & Associates, PC and have chosen to waive the credit for the following new hires.

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EMPLOYEE NAME/ DATE OF HIRE

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SOCIAL SECURITY NUMBER

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EMPLOYEE NAME/ DATE OF HIRE

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SOCIAL SECURITY NUMBER

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EMPLOYEE NAME/ DATE OF HIRE

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SOCIAL SECURITY NUMBER

**PLEASE COMMENT BRIEFLY ON THE REASON FOR WAIVING THE CREDIT FOR THE EMPLOYEES LISTED**

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COMPANY NAME

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SIGNATURE & DATE