

**TAXALERT**  
**March 23, 2010**

**HIRE ACT PROVIDES PAYROLL TAX HOLIDAY AS INCENTIVE TO HIRE  
NEW EMPLOYEES**

On March 18, 2010, President Obama enacted the Hiring Incentives to Restore Employment (HIRE) Act into law to provide employers a payroll tax holiday. Employers will not be required to pay the employer 6.2% Social Security tax with respect to wages paid to "Qualified Individuals" from March 19, 2010 to December 31, 2010.

A Qualified Individual is an employee:(i) who is hired after February 3, 2010 and before January 1, 2011; (ii) who has not been employed for more than 40 hours within the last 60 days before the date of hire (the new hire must sign a statement under penalties of perjury); (iii) who is not replacing a current employee (except in cases of voluntary termination or termination with cause); and (iv) who must not own more than a 50% of the employer (or be related or affiliated to any person or entity who owns more than 50% of the employer).

The employer would not be able to claim in the federal return for the first quarter of 2010 (Form 941-PR, Puerto Rico Employer's Quarterly Federal Tax Return) the 6.2% Social Security tax exemption with respect to wages paid to Qualified Individuals from March 19 to March 31, 2010. Instead, the employer would claim a credit for said tax exemption in Form 941-PR for the second quarter of 2010. It is expected that the IRS will soon issue a revised Form 941-PR to claim the credit related to the first quarter of 2010 and the tax exemption for the remaining three quarters of 2010. In addition, the IRS is expected to issue a form for employees to make the required statement about prior employment.

The exemption does not apply to the employee portion of the 6.2% Social Security tax of the Qualified Individuals. Further, the employer and employee's portions of the 1.45% Medicare tax would apply to wages paid to Qualified Individuals.

The HIRE Act also provides for an income tax credit of up to \$1,000 for each Qualified Individual who is employed for at least 52 consecutive weeks. It appears that an employer in Puerto Rico will be able to claim this income tax credit on its Puerto Rico income tax return for taxable year \$1,000. It is expected that the Puerto Rico Treasury Department will issue guidance on this matter.

If you have any questions or wish additional information regarding this matter, please contact any of the following attorneys of our **TaxPractice Group**:

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