



PUERTO RICO EMPLOYERS ELIGIBLE FOR SOCIAL SECURITY TAX EXEMPTION AND CASH GRANT FOR HIRING UNEMPLOYED PERSONS

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The Hiring Incentives to Restore Employment Act of March 18, 2010 (the “HIRE Act”) provides tax incentives to Puerto Rico employers that hire certain unemployed persons within certain time periods.

The tax benefits provided by the HIRE Act are the following:

- (i) exemption from the 6.2% social security tax paid by employers on the salary paid to each qualified employee for services rendered between March 19th and December 31st, 2010; and
- (ii) a cash payment of a maximum of \$1,000 (the “Cash Payment”) for each qualified employee hired during a certain time period that continue to be employed by the employer during at least 52 consecutive weeks. The Cash Payment is the lower of \$1,000 or the 6.2% social security tax of the employer on the salary of the qualified employee during the 52 week period.

To qualify for the 6.2% social security tax exemption, the employee must meet the following requirements: (i) commence his or her employment after February 3, 2010 and before January 1, 2011; (ii) certify under penalty of perjury that he or she had not been employed for more than 40 hours during the 60 days prior to the commencement of employment; (iii) may not be employed to substitute a former employee, unless the former employee was dismissed with cause or terminated his or her employment voluntarily; and (iv) may not have certain family and other relationships with the employer or, in the case of corporate employers, with a shareholder of the corporation that directly or indirectly (pursuant to certain attribution rules) owns more than 50% of the issued and outstanding shares of the corporation.

To qualify for the Cash Payment, the employee must have been employed any day of any taxable year of the employer ending after March 18, 2010, and be employed during at least 52 consecutive weeks. Additionally, the aggregate salary paid to the employee during the second 26 week period of employment must be at least equal to 80% of the aggregate salary paid during the first 26 weeks of employment.

The Cash Payment is a one time benefit and may be claimed with respect to each qualified employee when the 52 consecutive week requirement is met for the first time.

The Cash Payment will be made by the Secretary of the Treasury of Puerto Rico, out of funds that will be provided by the United States Treasury, so long as the Secretary of the Treasury of the United States approves a plan submitted by the Secretary of the Treasury of Puerto Rico for the expedited payment of the Cash Payment to the Puerto Rico employers.

The above summary is intended for information purposes only. It cannot be considered a legal opinion, and it does not intend to consider all the tax and legal considerations that could be relevant to any particular person or entity. It should also be noted that the changes discussed herein were recently enacted, and that the PR Treasury has not yet issued regulations, tax forms or interpretative announcements on such changes.

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About the author:

Mr. Fernando Goyco-Covas received his bachelor's degree, magna cum laude, from Catholic University of Puerto Rico and his law degree, magna cum laude, from the University of Puerto Rico Law School, where he was a member of the Law Review.

Mr. Goyco-Covas has devoted most of his more than 30 years of legal practice to provide tax advice to multinational companies with Puerto Rico operations, structure the operations of multinational companies in Puerto Rico, structure and negotiate complex business transactions, such as mergers and acquisitions, structure financial products for the local market. He has also been very successful in the litigation of tax disputes in the Puerto Rico courts, jointly with members of our litigation department.

Mr. Goyco-Covas published "How Puerto Rico is a Tax Haven for the US" in the November 2005 edition of the International Tax Review and is the author of the tax practitioner chapter of Commerce Clearing House's Puerto Rico Tax Service. He is also a frequent speaker at Puerto Rico tax seminars and has lectured on Puerto Rico tax matters at seminars sponsored by the Tax Executive Institute in Chicago and Washington, D.C. and in promotional seminars of the Puerto Rico Industrial Development Company throughout the United States and in South America. Mr. Goyco-Covas is also a founding member of Lataxnet, a network of tax and corporate lawyers from Mexico, the Caribbean and Central and South America.