LEGISLATURE OF THE STATE OF IDAHO

Sixty-first Legislature First Regular Session - 2011

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 297, As Amended in the Senate

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO THE SPECIAL INCOME TAX CREDIT AVAILABLE FOR NEW EMPLOYEES; TO PROVIDE A SHORT TITLE; REPEALING SECTION 63-3029E, IDAHO CODE, RELATING TO DEFINITIONS AND CONSTRUCTION OF TERMS FOR INCOME TAX CREDIT; AMENDING SECTION 63-3029F, IDAHO CODE, TO REVISE THE INCOME TAX CREDIT AVAILABLE TO RATED EMPLOYERS FOR EMPLOYING NEW EMPLOYEES; AMENDING SECTION 63-4405, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION AND PROVIDING EFFECTIVE DATES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. This act shall be known as the "Hire One Act."

SECTION 2. That Section 63-3029E, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Section 63-3029F, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029F. SPECIAL CREDIT AVAILABLE -- NEW EMPLOYEES. (1) For the period January 1, 2011, through December 31, 2013, a~~A~~ny ~~taxpayer~~ rated employer under chapter 13, title 72, Idaho Code, that is not a governmental or nonprofit entity shall be allowed a credit, in an amount determined under subsection (~~2~~3) of this section, against the tax imposed by this chapter, other than the tax imposed by section 63-3082, Idaho Code, for any taxable year during which the ~~taxpayer's~~ rated employer's employment of new employees~~, as defined under section 63-3029E(1), Idaho Code,~~ increases above the taxpayer's average employment for either~~: (a)~~ the prior taxable year~~,~~ or ~~(b)~~ the average of three (3) prior taxable years, whichever is higher. No credit shall be allowed under this section unless the number of new employees equals or exceeds one (1) person. The new employee must have been hired on or after April 15, 2011, received qualifying employer-provided health care benefits as determined by the state tax commission and be employed in a county in the state of Idaho with an unemployment rate based on the benchmarked annual unemployment rate as determined by the department of labor on the date the new employee was hired of:

(a) Ten percent (10%) or more at average annual earnings of twelve dollars ($12.00) or more per hour; or

(b) Less than ten percent (10%) at average annual earnings of fifteen dollars ($15.00) or more per hour.

(2) ~~(a) The credit authorized in subsection (1) of this section shall be:~~

~~(i) Five hundred dollars ($500) per new employee described in subsection (2)(d) of this section; or~~

~~(ii) One thousand dollars ($1,000) per new employee described in subsection (2)(c) of this section, but not both.~~

~~(b) The total credit allowed by this section shall not exceed three and one-quarter percent (3.25%) of net income from the taxpayer's corporate, proprietorship, partnership, small business corporation or limited liability company trade or business in which the employment occurred. Additionally, the total amount of this and all other credits allowed under this chapter except for the credits allowed under section 63-3029, Idaho Code, shall not exceed fifty percent (50%) of the tax liability of the taxpayer. The tax liability of the taxpayer shall be the tax after deducting the credit allowed by section 63-3029, Idaho Code.~~

~~(c) The one thousand dollar ($1,000) credit shall apply to an employee who, in the calendar year ending during the taxable year for which the credit is claimed, received annual earnings at an average rate of fifteen dollars and fifty cents ($15.50) or more per hour worked and who, during such calendar year, was eligible to receive employer provided coverage under an accident or health plan described in section 105 of the Internal Revenue Code.~~

~~(d) The five hundred dollar ($500) credit shall apply to an employee not described in subsection (2)(c) of this section and who is employed in a revenue-producing enterprise as defined in section 63-3029E, Idaho Code~~ As used in this section:

(a) The term "new employee" means a person subject to Idaho income tax withholding whether or not any amounts are required to be withheld, employed by the taxpayer in a trade or business and covered for unemployment insurance purposes under chapter 13, title 72, Idaho Code, during the taxable year for which the credit allowed by this section is claimed. A person shall be deemed to be so engaged if such person performs duties on:

(i) A regular full-time basis; or

(ii) A part-time basis if such person is customarily performing such duties at least twenty (20) hours per week.

No credit shall be earned unless the new employee shall have performed such duties for the taxpayer for a minimum qualifying period of nine (9) consecutive months with any part of the qualifying period ending during the taxable year for which the credit is claimed.

(b) The provisions of paragraph (a) of this subsection notwithstanding, no credit shall be allowed for employment of persons by a taxpayer who acquires a trade or business from another taxpayer or who operates in a place of business the same or substantially identical trade or business as operated by another taxpayer within the prior twelve (12) months, except as the prior taxpayer would have qualified under the provisions of paragraph (c) of this subsection. Employees transferred from a related taxpayer shall not be included in the computation of the credit.

(c) The number of employees during any taxable year for any taxpayer shall be the mathematical average of the number of employees reported to the Idaho department of labor for employment security purposes during the twelve (12) months of the taxable year which qualified under paragraph (a) of this subsection. In the event the business is in operation

for less than the entire taxable year, the number of employees of the business for the year shall be the average number actually employed during the months of operation, providing that the qualifications of paragraph (a) of this subsection are met.

(d) "Same or a substantially identical trade or business" means a trade or business in which the products produced or sold, or the activities conducted are the same in character and use and are produced, sold or conducted in the same manner as, or for the same types of customers as, the products or activities produced, sold or conducted in another trade or business.

(e) The term "positive-rated employer" means an employer under the employment security law with a taxable wage rate that is less than the wage rate assigned to standard-rated employers as determined by the director of the department of labor according to section 72-1350, Idaho Code.

(f) The term "standard-rated employer" means an employer under the employment security law assigned a standard taxable wage rate by the director of the department of labor according to section 72-1350, Idaho Code.

(g) The term "deficit-rated employer" means an employer under the employment security law with a taxable wage rate that is higher than the wage rate assigned to standard-rated employers as determined by the director of the department of labor according to section 72-1350, Idaho Code.

(3) ~~If the sum of the credit carryovers from the credit allowed by subsection (2) of this section and the amount of credit for the taxable year from the credit allowed by subsection (2) of this section exceed the limitation imposed by subsection (2) of this section for the current taxable year, the excess attributable to the current taxable year's credit shall be a credit carryover to the three (3) succeeding taxable years. The entire amount of unused credit shall be carried forward to the earliest of the succeeding years, wherein the oldest available unused credit shall be used first, so long as the employment level for which the credit was granted is still maintained~~ For positive-rated employers the credit authorized in subsection (1) of this section shall be six percent (6%) of the gross salary paid to the eligible new employee during the initial twelve (12) months of employment and claimed during the qualifying taxable year. For standard-rated employers the credit authorized in subsection (1) of this section shall be four percent (4%) of the gross salary paid to the eligible new employee during the initial twelve (12) months of employment and claimed during the qualifying taxable year. For deficit-rated employers the credit authorized in subsection (1) of this section shall be two percent (2%) of the gross salary paid to the eligible new employee during the initial twelve (12) months of employment and claimed during the qualifying taxable year. If the credit authorized by this section exceeds the tax liability of the taxpayer, the excess shall be refunded.

(4) To claim the credit, rated employers must attach to the employer's income tax return the taxable wage rate notice issued by the department of labor for the income tax year for which the credit is claimed.

(5) The state tax commission shall promulgate rules in compliance with chapter 52, title 67, Idaho Code, to administer the provisions of this section.

SECTION 4. That Section 63-4405, Idaho Code, be, and the same is hereby amended to read as follows:

63-4405. ADDITIONAL INCOME TAX CREDIT FOR NEW JOBS. (1) Subject to the limitations of this chapter, for taxable years beginning on or after January 1, 2006, and before December 31, 2020, a taxpayer who has certified that the tax incentive criteria will be met within a project site during a project period shall, for the number of new employees earning more than a rate of twenty-four dollars and four cents ($24.04) per hour worked, in lieu of the credit amount in subsection (~~2~~3)~~(a)~~ of section 63-3029F, Idaho Code, be allowed the credit provided by this section. The number of new employees is the increase in the number of employees for the current taxable year over the greater of the following:

(a) The number of employees for the prior taxable year; or

(b) The average of the number of employees for the three (3) prior taxable years.

(2) The credit provided by this section shall be:

(a) One thousand five hundred dollars ($1,500) for each new employee whose annual salary during the taxable year for which the credit is earned is greater than twenty-four dollars and four cents ($24.04) per hour worked but equal to or less than an average rate of twenty-eight dollars and eighty-five cents ($28.85) per hour worked;

(b) Two thousand dollars ($2,000) for each new employee whose annual salary during the taxable year for which the credit is earned is greater than an average rate of twenty-eight dollars and eighty-five cents ($28.85) per hour worked but equal to or less than an average rate of thirty-six dollars and six cents ($36.06) per hour worked;

(c) Two thousand five hundred dollars ($2,500) for each new employee whose annual salary during the taxable year for which the credit is earned is greater than an average rate of thirty-six dollars and six cents ($36.06) per hour worked but equal to or less than an average rate of forty-three dollars and twenty-seven cents ($43.27) per hour worked;

(d) Three thousand dollars ($3,000) for each new employee whose annual salary during the taxable year for which the credit is earned is greater than an average rate of forty-three dollars and twenty-seven cents ($43.27) per hour worked.

(3) The credit allowed by subsection (1) of this section shall apply only to employment primarily within the project site. No credit shall be earned unless such employee shall have performed such duties for the taxpayer for a minimum of nine (9) months during the taxable year for which the credit is claimed.

(4) The credit allowed by this section shall not exceed sixty-two and five-tenths percent (62.5%) of the tax liability of the taxpayer.

(5) Employees transferred from a related taxpayer or acquired from another taxpayer within the prior twelve (12) months shall not be included in the computation of the credit unless the transfer creates a net new job in Idaho.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after passage and approval, and retroactively to January 1, 2011. The provisions of Sections 1 and 3 of this act shall be null, void and of no force and effect on and after January 1, 2014.