



DATE: April 19, 2010
TO: Our Valued Client Partners & Friends
FROM: HIB Account Team
RE: **EMPLOYER ALERT 2010-02**
First Quarter 2010

We are pleased to bring you our **Employer Alert 2010-02: First Quarter 2010** addressing a number of Human Resource events both legal and economical which may effect how you run your department.

We hope you find this useful and please, if you have any questions, contact your HIB Account Team for assistance.

FIRST QUARTER 2010

FEDERAL EARNED INCOME TAX CREDIT

The earned income credit (EITC) is a tax credit for certain people who work and have low wages, resulting in a reduction in the amount of tax they owe. While this is a federal tax credit, there are some states with federal EITC notice requirements, and some state and local governments that have enacted their own EITC laws. The following links will provide you with additional information, copies of notices and links to local and state web sites.

Federal Earned Income Tax Credit (EITC) Information for Employers
<http://www.irs.gov/individuals/article/0,,id=129062,00.html>

Federal Notice: <http://www.irs.gov/pub/irs-pdf/n797.pdf>

States With Federal EITC Notice Requirements

Employers in CA, IL, LA, NJ, TX, VA are required by state law to notify employees of the federal EITC.

For details on each state's requirement and links to sample state notices (where available), see the article at http://legacy.americanpayroll.org/currently/pdfs/PC_issue24_11.pdf.
(Source: American Payroll Association <http://www.americanpayroll.org/>)



EMPLOYER ALERT 2010-02

First Quarter 2010

April 19, 2010

Page 2

State and Local Governments with Earned Income Tax Credits (EITC)

The following states have enacted a state level EITC: DE, DC, IL, IN, IA, KS, LA, ME, MD, MA, MI, MN, NE, NJ, NM, NY, NC, OK, OR, RI, VT, VA, WI.

For links to state and local government EITC information, please visit the IRS web site at:

<http://www.irs.gov/individuals/article/0,,id=177866,00.html> and also

<http://www.cbpp.org/cms/index.cfm?fa=view&id=2987>

(Source: Center on Budget and Policy Priorities <http://www.cbpp.org/>)

FOUR LEGAL PITFALLS LOOM IN 2010

Employers often don't think about legal issues until they get hit with a lawsuit. Unfortunately, court actions are not only expensive – they can destroy companies, especially new ventures and underinsured and undercapitalized businesses. The good news is that law suits can also be prevented, with some foresight and planning.

Employee lawsuits on the Rise

Employment lawsuits are skyrocketing as more and more employees are being laid off. Plaintiffs' lawyers are increasingly filing discrimination and wrongful termination suits. This trend will likely escalate, since juries will be receptive to finding fault with the business community and corporate America given the struggling economy and numerous employer downsizings.

The Equal Employment Opportunity Commission reports that employee claims increased 9% in 2008—a record jump—and were up 15% over that in 2009. Age discrimination claims were the most frequent complaints filed (not surprising, given the aging population), with retaliation claims following in the No. 2 spot. Also consider that EEOC's budget has been beefed up budget (increased 7% for 2010), employees can now start the filing process online, and many employers are lax in their EEOC compliance. The result is that U.S. business can be in for trouble in 2010.

What Employers Should Do: Do a preventive audit of your payroll practices before the U.S. Department of Labor or your state labor commissioner decides to perform one for you. Many businesses are most likely fully compliant with wage-and-hour practices. However, others might find the need for cost-cutting measures overwhelming, and give in to the temptation to ignore appropriate employment policies.

Common mistakes to look out for include:

- minimum-wage violations,
- working-off-the-clock violations, and



EMPLOYER ALERT 2010-02

First Quarter 2010

April 19, 2010

Page 3

- failure to compensate properly for overtime hours.

It is not uncommon to find that (especially) small business owners misclassify nonexempt employees as exempt. Just because you call someone a manager and pay him a salary does not automatically make him exempt from being paid overtime and getting mandated lunch and rest breaks.

Another area to check in your audit is employee vs. independent contractor classification. Just because you issue 1099s instead of W-2s does not automatically transform a worker into an independent contractors. It is likely, given recent legal history, that, if there is any doubt, courts and the administrative agencies will find that almost everyone is an employee.

And finally, providing training about avoiding sexual harassment is another good idea that can save substantial expense and bad will in the future.

To access archived Employer Alerts please log into www.heffgroup.com and clicking on the link for HIB Client Community. If you need information on your Username and Password please contact your HIB Account Team.

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