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## A Hire Calling: Is Your Business Taking Advantage of Federal and State Employment Incentives?

By DAVID ESTRADA and MARK WOODWARD

As the economy struggles to right itself after one of the deepest recessions on record, cash-strapped businesses continue to face many challenges. This is especially true in California, where, with more than 2.2 million currently out of work—and an unemployment rate that's well above the national average—meaningful economic growth remains stifled.

Yet there are several solutions that can offer significant cash flow benefits to California-based businesses, and they come in the form of federal and state tax hiring credits and incentives. Does your business qualify? To find out, let's examine some of the key provisions.

### FEDERAL TAX CREDITS AND INCENTIVES

**Work Opportunity Tax Credit:** The Work Opportunity Tax Credit (WOTC) provides businesses with an incentive to hire individuals from groups that have a particularly high unemployment rate or other special employment needs. A business can claim the credit if it pays or incurs "qualified first-year wages" to a "targeted group employee."

Qualified first-year wages are wages paid or incurred for work performed by the employee during his or her first year of employment. A targeted group employee is any employee who has been certified by the state as a member of a targeted group, including veterans, food stamp recipients, Supplemental Security Income (SSI) recipients, and individuals age 18 to 24 who live in an Empowerment Zone or Renewal Community (see below).

The bottom line? Qualifying Los Angeles-area businesses can take a federal income tax credit of up to \$9,000 for each certified employee's first year of employment.

**Empowerment Zones and Renewal Communities:** Around the country, the federal government has designated certain economically depressed areas as tax-advantaged zones. There are two Empowerment Zones and one Renewal Community located in greater Los Angeles. These were created to encourage new businesses to open and existing businesses to expand their operations and hire local residents. Empowerment Zone incentives include hiring credits, low-interest loans, and reduced taxation on capital gains.

Probably the most popular Empowerment Zone incentive is the hiring credit. Businesses can take an annual federal income tax credit of up to \$3,000 for each employee who lives in an Empowerment Zone and works for a business within an Empowerment Zone.

Like Empowerment Zones, Renewal Communities were created to encourage businesses to open, expand, and hire local residents. The incentives include employment credits, no tax on capital gains, accelerated depreciation through Commercial Revitalization Deductions, and other incentives. Again, the most popular Renewal Community incentive is the hiring



credit. Businesses can take an annual federal income tax credit of up to \$1,500 for each employee who lives in a Renewal Community and works for a business within the Renewal Community.

**The Hiring Incentives to Restore Employment Act:** Signed into law in March 2010, the Hiring Incentives to Restore Employment (HIRE) Act gave employers two significant motivations to take on new employees. One was a payroll tax exemption, and the other was a retained worker tax credit.

These incentives applied to any employee hired between February 3, 2010, and before January 1, 2011, who wasn't employed for more than 40 hours, in total, during the 60 days prior to commencement of employment. Eligible employers include any employer other than the federal government, state governments, and their political subdivisions. Nontaxable entities such as educational institutions, not-for-profit organizations, and tribal governments are eligible.

The HIRE Act exempted employers from paying their portion of the FICA tax for all wages paid to a qualified employee between March 19, 2010, and December 31, 2010. It also provides employers with a federal tax credit of up to \$1,000 if they retain the qualified employee for 52 consecutive weeks and meet certain wage criteria.

The HIRE Act has yet to be extended into 2011 (though legislation is pending to do so). However, employers that didn't take advantage of the FICA exemption for qualified employees hired during 2010 still have time to go back and file amended Form 941s to take advantage of the opportunity in the form of cash refunds.

### CALIFORNIA TAX CREDITS AND INCENTIVES

**California Enterprise Zone Credits:** One of the more significant state tax credit and incentive programs available to California businesses are those provided by the

California Enterprise Zone (CAEZ) program. Like some of the federal zone programs discussed above, the CAEZ was established to stimulate business investment in depressed areas of the state and create job opportunities for Californians. There are 42 zones throughout California, many of which are located (and have recently been expanded) in the greater Los Angeles area, including Hollywood, Downtown, East Los Angeles, Pasadena, Southgate, LAX, Long Beach, Santa Clarita, Antelope Valley, and the San Fernando Valley.

Los Angeles businesses that have a location in a CAEZ and hire a qualified employee can claim a state income tax credit of over \$37,000 per employee. Similar to the federal WOTC credit discussed above, the employer can claim the credit if it pays or incurs qualified wages to a qualified employee. Qualified wages are wages paid or incurred during the consecutive 60-month period beginning with the employee's date of hire, generally not to exceed 150 percent of the minimum wage. An employee is qualified when at least 50 percent of his or her services are performed within a zone and when at least 90 percent of his or her work is directly related to the conduct of the employer's business in a zone.

Further, a qualified employee is any employee who, at the time of hire, can be certified by a CAEZ coordinator as a member of a targeted group that has a particularly high unemployment rate or other special employment needs. Targeted groups include WOTC-certified individuals, veterans, Native Americans, food stamp recipients, SSI recipients, dislocated workers, disabled workers, and residents of a targeted employment area. The tax credit is based on the employee's wages and is taken over a five-year period, most of it in the first two years.

CAEZ credits don't expire; any unused credits carry over to subsequent tax years. Further, starting in 2010, the credits are eligible for assignment within a com-

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bined unitary business group. And finally, for prior years, businesses can obtain the benefits through the filing of amended returns.

### OTHER CALIFORNIA AND MULTISTATE INCENTIVES

In addition to the CAEZ program, there's a new California tax credit of up to \$3,000 for each additional full-time employee hired. This became available to small businesses with 20 or fewer employees beginning January 1, 2009. The credit is prorated on an annual full-time equivalent basis for employees employed less than a full year. The total amount of the credit that may be taken by all taxpayers is capped at \$400 million. Currently, only approximately 10 percent of the total credit available has been used.

The city of Los Angeles is also considering a proposed ordinance that would give Los Angeles employers a \$1,000 to \$5,000 credit against the city's business tax for every resident they hire, which would remain in effect until the city's unemployment rate is reduced to prerecession levels.

Other incentives—those that don't relate to hiring—are also available. So in addition to the hiring credits and incentives, businesses can qualify for a state income tax credit equal to the sales tax paid on qualified property purchased and placed in service at a business zone location. In addition, Los Angeles financial

institutions can also take advantage of the CAEZ Net Interest Deduction incentive.

And finally, like California, many other states have hiring credit and incentive programs that either mirror the federal programs or are very similar in nature.

### GETTING STARTED

While any one of the incentive opportunities discussed above can strengthen your business and add dollars to your bottom line, identifying the opportunity and capturing the necessary data can be challenging and intrusive. Moss Adams LLP has created an easy-to-use Web-based tool to help businesses determine whether they qualify for any of the federal or state incentives discussed above. The tool can also calculate the amount of the potential incentive and determine if there's an opportunity for a retroactive application of the incentive for prior periods.

*David Estrada and Mark Woodward are senior managers at Moss Adams LLP, the 11th largest accounting and consulting firm in the nation and the largest with headquarters on the West Coast. David specializes in state tax credits and incentives as well as multistate sales and use taxes. Mark specializes in multistate income (franchise) tax, capital tax, and business activity tax. They can be reached at david.estrada@mossadams.com and mark.woodward@mossadams.com.*

## Tips for Optimizing Your Company's Workflow

By RICHARD WALKER

A fundamental concept of improving your company's profitability is to raise revenue and/or lower expenses. While increasing sales in your organization is either an art (i.e. still trying to figure it out) or a science (i.e. you make sales repeatedly), lowering expenses through optimization is predominantly a science that can be performed easily once you understand the steps.

Assessing your company's workflow, or the specific process in which a set of tasks or jobs are performed, is the easiest and fastest way to enhance your bottom line. While many people make the mistake of simply looking for a new technology to make their lives easier, optimizing an entire workflow is far more comprehensive and successful in delivering lasting results to your entire organization and possibly your customers.

Here's how to optimize your workflow. Start by selecting a process that has a direct impact on your ability to win and/or service customers (customers are usually the main drivers of your revenue and cost structures). In a three column spreadsheet, do the following:

- Write down the steps or tasks in your process
- Identify the role of the person who performs each step
- List the tool used on each step (including manual tools like pen and paper)
- Review the entire process and identify areas to improve

By using these four steps you are almost guaranteed to become more efficient. Simply knowing and understanding your process will make it easier to see how your organization operates and to train others on your process. Then, as you recognize areas for improvement, such as ineffective tools, redundant steps or lack of training, optimizing your workflow can become as simple as finding a better tool, eliminating steps and/or providing better training to your team.

One pitfall to watch out for: technology is not a cure, it is an integral part of a process. All too often people buy a new technology in the hope of rapid improvements without understanding how the new tool works within the process. Having your steps written out makes it easier to identify the features and functionality you require of a new technology solution to actually realize the promise of workflow automation. When you implement a new technology that is matched to your process you're chance of long-term success is greatly improved, resulting in real improvements to your profitability.

*Richard Walker is the CEO of Efficient Technology Inc. (ETI), a software services company with the simple goal of making it easier to get work done. As both the leader of ETI and the driving force behind hundreds of its customers' efficiency improvements, Walker strives to empower people to do their best work. Contact Richard directly via [rwalker@efficienttech.com](mailto:rwalker@efficienttech.com).*

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**Tamara I. Devitt**  
Managing Partner  
tdevitt@laborlawyers.com  
(213) 330-4450



**Lonnie D. Giamela**  
Partner  
lgiamela@laborlawyers.com  
(213) 330-4454



**Annie B. Markarian**  
Associate  
amarkarian@laborlawyers.com  
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# Social Media in the Workplace: 'Wall to Wall'

By TAMARA I. DEVITT

THESE days, blurring the line between "professional" and "personal" social networking is as easy as sending a 140-character "tweet" revealing a company trade secret or an employee in a company uniform posting risqué pictures on her Facebook page from a weekend that *should have* stayed in Vegas.

The explosion of social networking sites has given employees new avenues for harassment, disparaging other employees and the company, and sharing confidential information. An applicant's social networking site may reveal her race, religion, disability, or sexual orientation, thus exposing businesses to increased risk of a failure to hire claim. In addition, a positive LinkedIn recommendation that contradicts the reasons for a poor-performance termination may be used against an employer in a wrongful termination lawsuit.

Yet, taking adverse action against an employee based on information gleaned from a social networking site may result in invasion of privacy and other claims.

Many employees feel that it is an invasion of privacy for employers to monitor their *personal* computer use – even when using the employer's computer systems.

Employees generally have no reasonable expectation of privacy in publicly-available material. However, there is no bright-line rule if an employee's privacy settings restrict public access or if she uses a non-work computer. Further, employers may be limited from taking action for disparag-



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ing "tweets" or "wall posts" by laws prohibiting restrictions on lawful off-duty conduct. Accordingly, an employer may be exposed to potential liability if it chooses to discipline an employee after viewing photographs of the employee on her online profile, smoking, drinking or engaging in other lawful conduct.

Also, certain employee discussions about work conditions on such sites may be considered protected activity under the

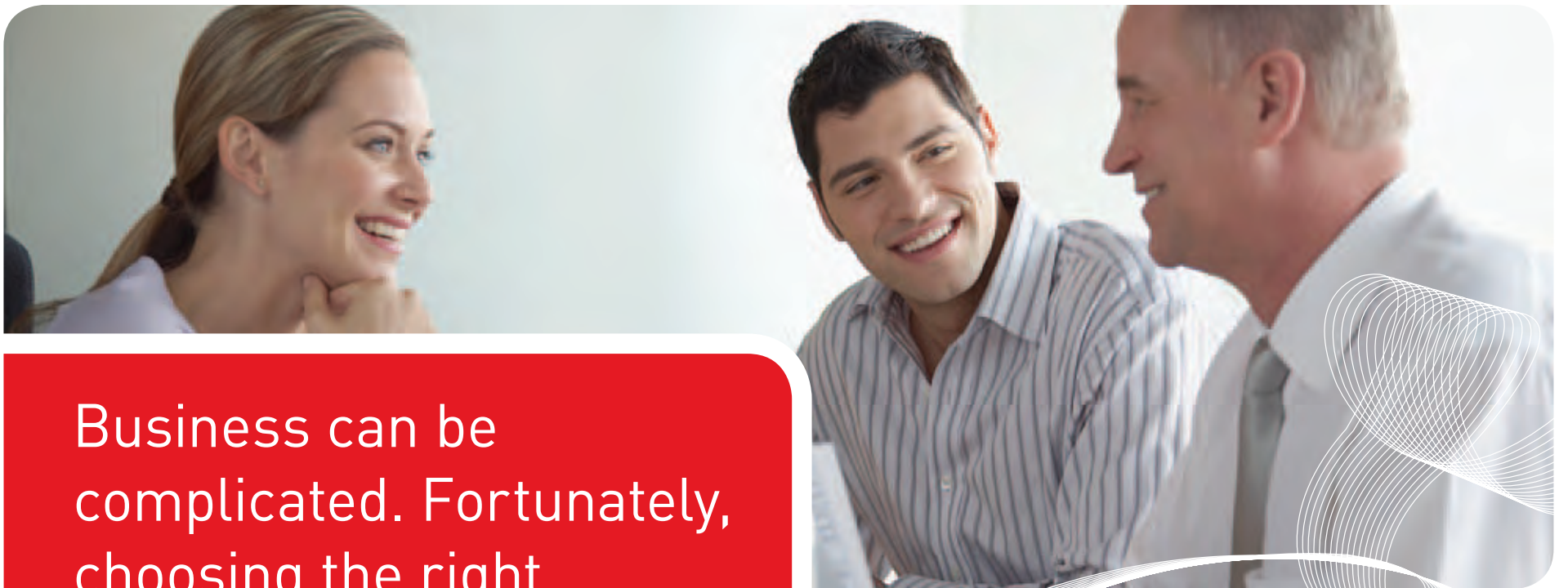
National Labor Relations Act. The National Labor Relations Board's General Counsel recently issued a complaint alleging that a company's blogging and Internet policy "interferes with, restrains and coerces" employees in the exercise of their rights under the NLRA and that an employee was unlawfully fired after she criticized her supervisor on Facebook.

Despite increased use of social networking sites, there is limited and conflicting

guidance for employers from the courts. It is clear, however, that well-drafted policies are essential to dispelling any expectation of privacy. A computer-use policy that simply prohibits personal use and disclaims any expectation of privacy is not enough. Yet, banning workplace social networking altogether raises enforcement problems and may be impractical and/or alienate valuable Generation Y and Z employees.

There is no "one size fits all" policy. Any policy should be tailored to fit the specific needs of your company. At a minimum, employers should: (1) make sure computer-use, confidential and proprietary information, and no-harassment policies address social networking use; (2) advise employees that if they use the company's e-mail address or name they must act in accordance with the company's professional standards, including respecting the company, its employees, customers, vendors, etc.; (3) train managers to follow and enforce the policy and caution them against becoming online "friends" with subordinates; and (4) carefully investigate before taking any disciplinary action.

*Tamara I. Devitt is Managing Partner of the Los Angeles office of Fisher & Phillips LLP, a national firm representing employers in labor and employment matters. She specializes in developing social media workplace policies and helps businesses manage the risks of social media in this era of constant communication. For more information contact the author at (213) 330-4500 or tdevitt@laborlawyers.com.*



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## Effective Human Capital Management (HCM) Impacts Business Success

By LINDA MARCOT

A business-linked human capital management (HCM) strategy, is imperative to business success. HCM includes the acquisition, deployment, and management of an organization's workforce to meet current and future business goals. HCM has largely been handled reactively – rushing to fill positions due to unexpected turnover or to respond to the human capital needs of new business directions. Alternatively, those organizations with a well defined and managed HCM strategy react quickly to change, not missing a beat that could impact their competitiveness. They routinely reduce the down time related to staff turnover, prepare for future needs by maintaining a talent pool that can be quickly deployed, and forecast and manage to potential talent shortages.

Leading organizations align their human capital acquisition, management, and development programs with business strategy and jointly design and manage these programs. These organizations understand key positions and requisite skills critical to execute their business strategy. They know their workforce and how to maximize their potential, they anticipate future needs and build their internal talent pools.

An example of the successful deployment of HCM is seen within a fairly new entrant to the retail grocery business, Fresh & Easy Neighborhood Market. Operating not only in a fast growth environ-



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ment, but in an industry that, by its nature, experiences high turnover, has put HCM at the top of the CEO's, Chief Human Resource Officer's (CHRO's) and business leader's agendas. HCM is acknowledged as key to their success. They have designed an integrated approach able to meet business demands. Some of the key HCM programs include:

A "People Plan" based on the organiza-

tion's values and strategies that is closely monitored. The plan's people metrics, trends, and forecasts are key agenda items for discussion by HR and the Executive Management team as a routine part of management meetings. Supporting the People Plan are programs such as:

- A robust "talent spotting" program that looks at staff performance, skills, and

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capabilities, identifying high performers who are nominated for training, advancement, rotational opportunities, etc.

- A talent planning process that ensures departments are staffed effectively, employees are given opportunity to grow (a key value), and resources are deployed for success.
- Training programs that develop store managers who form a talent pool to handle store start up or fill open management positions
- Leadership development that hones skills and develops a leadership talent pool.

Hugh Cousins, CHRO, Fresh & Easy Neighborhood Market states, "Implementing a strong and successful Human Capital Management program has been central to our efforts to grow a talented workforce dedicated to our values. For Fresh & Easy, HCM efforts are a key to being a great place to work."

No longer can human capital management be unrelated programs, run independently by HR or line managers. Those who will lead the pack will have a strong HCM strategy led by HR and management, defining and managing the firm's most valuable asset, human capital.

*Linda Marcot is Principal of LMC Human Capital Consulting. She also teaches Human Capital Management as well as Leadership Communication Studies at UCLA Extension.*

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