



### **Tax Treatment of Military Leave Differential Pay**

On April 20, 2009, the IRS issued Revenue Ruling 2009-11 which addresses HEART Act tax treatment of differential pay to employees on active duty military leave:

- Differential wage payments to an employee while in active duty in the United States uniformed services for more than 30 days is subject to federal income tax withholding, but is not subject to FICA (Social Security and Medicare) or FUTA (federal unemployment) taxes;
- Employers may withhold for federal income taxes for differential wage payments under the supplemental wage withholding rules pursuant to one of two methods, the aggregate method or the optional flat rate withholding method, currently 25% of the military differential pay; and
- The amount of differential wage payments must be reported on the employee's Form W-2.

The revenue ruling is effective for differential wage payments made after December 31, 2008.

You may access Rev. Rul. 2009-11 at <http://www.irs.gov/pub/irs-irbs/irb09-11.pdf>.

April 23, 2009