

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WOTC/WtWTC
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TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 20-06

**TO:** ALL STATE WORKFORCE AGENCIES  
ALL STATE WORKFORCE LIAISONS

**FROM:** EMILY STOVER DeROCCO /s/  
Assistant Secretary

**SUBJECT:** Reauthorization of the Work Opportunity Tax Credit (WOTC)  
and Other Program Changes

1. **Purpose.** To announce the reauthorization of the Work Opportunity Tax Credit Program under the Tax Relief and Health Care Act of 2006 (P.L. 109-432) and provide procedural guidance to the states for processing requests for certification under the amended program.
2. **References.** The Tax Relief and Health Care Act of 2006 (P.L. 109-432); Working Families Tax Relief Act of 2004 (P.L. 108-311); Training and Employment Guidance Letter (TEGL) No. 14-05, dated February 9, 2006; Internal Revenue Code (IRC) of 1986, Sections 51 and 51A, as amended; Employment and Training Administration (ETA) Handbook No. 408, Third Edition, November 2002 (the Handbook); and the May 2005 Addendum to the Handbook.
3. **Background.** Legislative authority for the WOTC program and the Welfare-to-Work Tax Credit (WtWTC) expired December 31, 2005. Congress has reauthorized and extended the WOTC program through December 31, 2007. Congress has also modified certain provisions with respect to individuals who begin work for an employer after December 31, 2006.
4. **Authorization.** The Tax Relief and Health Care Act of 2006 (P.L. 109-432) was signed into law on December 20, 2006. Section 105 of the Act provides a two-year extension of the WOTC program through December 31, 2007, effective retroactively to January 1, 2006.

RESCISSIONS None	EXPIRATION DATE: Continuing
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In addition, the following statutory changes apply with respect to individuals who begin work for employers on or after January 1, 2007:

- The earnings test for ex-felons is eliminated;
- The maximum age for food stamp recipients is increased;
- The certification request filing deadline is increased; and
- The WtWTC provisions are merged into the WOTC.

Explanation of Specific Statutory Amendments and Provisions. Section 105 of the Act:

- a) Amends the statutory definitions of two WOTC target groups in IRC Section 51 as follows:
  1. Ex-Felons - removes economic eligibility determination based on family income.
  2. Food Stamp Recipients - increases eligibility age from 18-25 to 18-40.
  
- b) Extends the certification request filing date from 21 to 28 days after the new hire begins work for the employer.
  
- c) Repeals IRC Section 51A by merging the WtWTC into the WOTC and creating a new WOTC target group I, entitled "Long-term family assistance recipient." The new target group retains the statutory definition and the more generous tax credit provisions over a two-year period of the former WtWTC. With respect to this target group only:
  - First-year WOTC is increased from 35 to 40 percent of qualified first-year wages, which are capped at \$10,000.
  - Second-year WOTC is retained at 50 percent of qualified second-year wages, again capped at \$10,000 for a maximum two-year credit of \$9,000.
  - Wages taken into consideration are calculated in the same manner as for the other WOTC target groups. Therefore, wages no longer include certain excludable amounts from the recipient's gross income.
  - The minimum employment or retention period is calculated in the same manner as for the WOTC. Therefore, the 180 days of service formerly required for certified WtWTC employees no longer applies to this target group under the consolidated WOTC. Note: For the other adult target

groups (except Summer Youth), “the 40-percent rate applies to qualified first-year wages only if the employee works at least 400 hours or more. If the employee works at least 120 hours, but fewer than 400 hours, the credit is 25 percent of qualified first-year wages capped at \$6,000 (\$3,000 for Summer Youth).”

5. **Program Administration.** Under the reauthorizing legislation, state workforce agencies’ (SWAs) certification and program operation responsibilities for the consolidated WOTC program remain the same as those described in the Handbook and the May 2005 Addendum to the Handbook. These include procedures for: (a) determining target group eligibility and issuing certifications and denials; (b) establishing working partnerships with different participating agencies at the state and local levels for resolving technical issues and issuing conditional certifications; (c) conducting verification activities; (d) complying with quarterly report responsibilities; and (e) records retention.
6. **IRS Form 8850.** IRS Form 8850, *Pre-Screening Notice and Certification Request for the Work Opportunity Credit*, and the instructions for Form 8850 have been revised. The February 2007 revised form and instructions are available at [www.irs.gov](http://www.irs.gov).

SWAs are reminded of the guidance provided in Announcement 2002-44, “Electronic Submission of Form 8850,” contained in the IRS’ Internal Revenue Bulletin (IRB) No. 2002-17, published on April 29, 2002. This announcement describes the requirements that must be met should SWAs choose to establish systems to accept electronic submission of IRS Form 8850. The text of Announcement 2002-44 is available at [http://www.uses.doleta.gov/pdf/Appendix\\_IV/Appendix\\_IV\\_3\\_Announcement\\_2002-44.pdf](http://www.uses.doleta.gov/pdf/Appendix_IV/Appendix_IV_3_Announcement_2002-44.pdf).

7. **Reporting Authority.** Pursuant to the Paperwork Reduction Act, the Office of Management and Budget (OMB) has extended the information collection requested for the WOTC/WtWTC administrative and streamlined reporting form without changes. ETA Form 9058 - Report 1 and ETA administrative forms 9057, 9059, 9061 - 9063, and 9065 are approved under OMB No. 1205-0371 through August 31, 2009. SWAs should continue to use the current certification and reporting forms until further notice. A package including revised reporting and administrative forms, updates to the May 2005, Addendum to the Handbook, a new Fourth Edition of ETA Handbook 408, a Fact Sheet “Employers: 9 ways to Earn Federal Income Tax Credits for Your Company,” and a revised

Technical Assistance and Compliance Review Guide will be submitted to OMB for clearance. Training on WOTC program amendments, provisions, and new reporting and administrative forms is being planned and will be provided through webinars.

8. **Action Required.** SWA administrators are requested to:
- a) Provide this information to appropriate program staff, employers and their representatives, participating agencies, and other interested partners. They are to ensure that the SWAs and participating agencies administer the WOTC in accordance with the guidance provided in the Handbook; the May 2005 Addendum to the Handbook; and the Internal Revenue Code of 1986, Section 51, as amended.
  - b) Ensure that State WOTC Coordinators receive a copy of the new legislation. Title I, Section 105 of the Tax Relief and Health Care Act of 2006 (P.L. 109-432) is available at <http://thomas.loc.gov/home/thomas2.html>.
9. **Inquiries.** Direct all questions to the appropriate Regional WOTC Coordinator.