

<b>EMPLOYMENT AND TRAINING ADMINISTRATION          ADVISORY SYSTEM          U.S. DEPARTMENT OF LABOR          Washington, D.C. 20210</b>	<b>CLASSIFICATION</b> WOTC
	<b>CORRESPONDENCE SYMBOL</b> OWI
	<b>DATE</b> January 2, 2014

**ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 8-13**

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

**FROM:** ERIC M. SELEZNOW   
 Acting Assistant Secretary

**SUBJECT:** Work Opportunity Tax Credit (WOTC) Procedural Guidance During Authorization Lapse

1. **Purpose.** To provide information and procedural guidance to State Workforce Agencies (SWAs) for receiving and handling requests for certification under the WOTC program, for all target groups, after the December 31, 2013, expiration date.
2. **References.**
  - Sections 309 and 237 of the American Taxpayer Relief Act of 2012 (Pub. L. 112-240);
  - Veterans Opportunity to Work to Hire Heroes Act of 2011 (VOW to Hire Heroes Act) (Pub. L. 112-56);
  - Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 (Pub. L. 111-312);
  - Internal Revenue Code of 1986, Section 51, as amended;
  - Training and Employment Guidance Letter (TEGL), Change 1 to TEGL 34-12, *Non Substantive Changes to Work Opportunity Tax Credit (WOTC) ETA Form 9061* (August 6, 2013);
  - TEGL No. 34-12, *Work Opportunity Tax Credit (WOTC) Information Collection Revised Reporting and Processing Forms* (June 14, 2013);
  - TEGL No. 24-12, Change 1, *Processing of Work Opportunity Tax Credit (WOTC) Certification Requests for Target Group Members Residing in Empowerment Zones (EZs)* (September 12, 2013);
  - TEGL No. 24-12, *Reauthorization of the Work Opportunity Tax Credit (WOTC) Program and Continuation of the Vow to Hire Heroes Act Veteran Groups and Provisions* (May 1, 2013);
  - ETA Handbook No. 408, November 2002, Third Edition (the Handbook); and
  - August 2009, Addendum to the Handbook 408.

<b>RESCISSIONS</b> None	<b>EXPIRATION DATE</b> Continuing
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3. **Background.** The WOTC program's legislative authority for all WOTC target groups expired on December 31, 2013. As a result, the program currently is undergoing an authorization lapse.

At this time, we have no indication whether Congress may pass legislation extending authority for the expired program and target groups beyond December 31, 2013. However, in the past when the tax credit program's authority lapsed and Congress subsequently reauthorized the program, certain legislative provisions allowed for retroactive certification of eligibility for the period between the expiration date and the reauthorization date. To be eligible for the tax credit during that period, employers must have properly filed requests for certification in a timely manner, and states must have received and logged them in for subsequent approval or denial. Final target group eligibility certification could only be issued by SWAs after the tax credit reauthorizing legislation was enacted and the specific legislative provisions were known.

Even though Congress has, in the past, provided for retroactive certifications we have no guarantee that this will happen again or that employers' new hires during this hiatus will be certified for the tax credit. If WOTC is extended with retroactive provisions, proper management of employers' certification requests should help prevent large backlogs.

4. **Administrative Program Guidance.** During prior "hiatus periods," the Employment and Training Administration (ETA) has instructed SWAs to accept applications (certification requests) in anticipation of a retroactive reauthorization. Therefore, ETA is instructing the SWAs to continue to accept applications for the expired target groups after December 31, 2013, but to hold off on processing the requests pending further legislative action and guidance from ETA. This guidance is applicable to all veteran and non-veteran target groups, as listed in TEGL No. 24-12.

We are instructing SWAs to adhere to the following procedures:

***Mandatory Procedures***

- SWAs must accept and fully process (i.e. issue certifications or denials) all timely filed WOTC certification requests for employers' new hires made on or before December 31, 2013.
- SWAs must accept, date stamp, log, and retain certification requests for employers' new hires made on or after January 1, 2014, until informed otherwise by ETA. States may not issue eligibility certifications unless the program is reauthorized.
- SWAs and participating agencies should continue to issue Conditional Certifications (ETA Form 9062).

***Voluntary Procedures***

- SWAs, with sufficient resources, may conduct all steps necessary to process certification requests up to, but not including, issuance of the actual certification or denial.

**5. Action Requested.** SWA administrators are advised to:

- a) Ensure all appropriate WOTC State Coordinators and related WOTC staff becomes familiar with the contents of this advisory, and take appropriate measures to ensure it is implemented in a timely manner;
- b) Notify all participating agencies of this guidance upon receipt of this advisory;
- c) Increase employers' awareness of the WOTC authorization lapse and the conditions for employers to file certification requests for their new hires during this period of time; and
- d) Notify employers that even though Congress has provided for retroactive eligibility certification in the past, certifications for an employer's new hires during this hiatus are not guaranteed.

**6. Inquiries.** Please direct all questions to the appropriate Regional WOTC Coordinator, who are listed on the WOTC program Web site at: <http://www.doleta.gov/wotc>.