

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WOTC
	CORRESPONDENCE SYMBOL OWI
	DATE January 24, 2012

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 15-11

TO: ALL STATE WORKFORCE AGENCIES
 ALL STATE WORKFORCE LIAISONS
 ALL REGIONAL COORDINATORS

FROM: JANE OATES /s/
 Assistant Secretary

SUBJECT: Work Opportunity Tax Credit (WOTC) Procedural Guidance During
 Authorization Lapse for Non-veteran WOTC Target Groups

1. **Purpose.** To provide information and procedural guidance to the State Workforce Agencies (SWAs) for processing requests for certification under the WOTC program after the December 31, 2011, expiration date for non-veteran target groups.

2. **References.**

- Veterans Opportunity to Work to Hire Heroes Act of 2011 (VOW to Hire Heroes Act) (Public Law (Pub. L.) 112-56);
- Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 (Pub. L. 111-312);
- American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5);
- Internal Revenue Code of 1986, Section 51, as amended;
- Internal Revenue Service Notices 2009-69, dated August 31, 2009 and 2009-28, 2009-24 I.R.B 1082, dated June 15, 2009;
- Training and Employment Guidance Letter (TEGL) 03-09, *Information and Guidance on the Two New Work Opportunity Tax Credit (WOTC) Targeted Groups Introduced by the American Recovery and Reinvestment Act of 2009*;
- TEGL No. 11-08, *Extension of the Information Collection for the Consolidated Work Opportunity Tax Credit (WOTC) Program: Revised Reporting and Processing Forms*;
- TEGL No. 11-08, Change 1, *Extension Period Granted to all State Workforce Agencies (SWAs) and Employers for the Uninterrupted Use of All 2007 Work Opportunity Tax Credit (WOTC) Processing Forms*;
- ETA Handbook No. 408, November 2002, Third Edition (the Handbook); and
- Addendum to the Handbook, August 2009, (Addendum, OMB No. 1205-0371).

RESCISSIONS None	EXPIRATION DATE Continuing
----------------------------	--------------------------------------

3. **Background.** The WOTC program's legislative authority was due to expire on August 31, 2011. On December 17, 2010, President Obama signed into law the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 (Pub. L. 111-312). This Act extended the program for an additional four-month period through December 31, 2011.

On November 22, 2011, President Obama signed into law the VOW to Hire Heroes Act, which amends and expands the definition of veteran target groups for WOTC. The VOW to Hire Heroes Act provides legislative authority for tax credits for veteran target groups until December 31, 2012, but did not extend any of the other (non-veteran) WOTC target groups. The guidance provided in this TEGL applies only to the non-veteran target groups, for which legislative authority expired on December 31, 2011. The Employment and Training Administration (ETA) will issue separate guidance regarding the amendments and provisions in the VOW to Hire Heroes Act.

At this time, there is no indication if, or when, Congress may pass legislation extending authority for the non-veteran WOTC target groups beyond December 31, 2011. However, in the past when the tax credit program's authority lapsed and Congress subsequently reauthorized the program, legislative provisions allowed for retroactive certification of eligibility for the period between the expiration date and the reauthorization date. However, 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 after the tax credit reauthorizing legislative provisions were known.

Even though Congress has, in the past, provided for retroactive certifications there is no guarantee that this will happen again or that employers' new hires during this hiatus will be certified for the tax credit. In the event that the 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," 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, 2011, but to hold off on processing the requests pending further legislative action and guidance from ETA.

SWAs are instructed to adhere to the following procedures:

Mandatory Procedures -

- SWAs must accept and fully process all timely filed WOTC certification requests for employers' hires made prior to January 1, 2012.

- SWAs must accept, date stamp, log, and retain certification requests for employers' new hires made after January 1, 2012, until informed otherwise by ETA. However, states may not issue eligibility certifications unless the program is once again reauthorized.
- SWAs and participating agencies (PAs) should continue to issue Conditional Certifications (ETA Form 9062). States should notify all PAs of this guidance upon receipt of this advisory.

Voluntary Procedures:

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

5. Action Required. SWA administrators are advised to:

- a) Increase employers' awareness regarding the WOTC authorization lapse and the conditions for employers to file certification requests for their new hires during this period of time;
- b) 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; and
- c) 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.

6. Inquiries. Direct all questions to the appropriate Regional WOTC Coordinator, who are listed on the WOTC program Web site at: <http://www.doleta.gov/wotc>. A directory of WOTC State Coordinators is also available on this Web site.