

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WOTC
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TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 5-07

TO: ALL STATE WORKFORCE AGENCIES
ALL STATE WORKFORCE LIAISONS

FROM: EMILY STOVER DeROCCO 
Assistant Secretary

SUBJECT: Reauthorization of the Work Opportunity Tax Credit
and Other Program Changes

- Purpose.** The purpose of this guidance is to announce the reauthorization of the Work Opportunity Tax Credit (WOTC) Program under the Small Business and Work Opportunity Tax Act of 2007 (P.L. 110-28) and provide procedural guidance to the states for processing requests for certifications under the consolidated program.
- References.** The Small Business and Work Opportunity Tax Act of 2007 (P.L. 110-28); 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. 20-06, dated April 7, 2007; Internal Revenue Code (IRC) of 1986, Section 51, as amended; Employment and Training Administration (ETA) Handbook No. 408, Third Edition, November 2002 (the Handbook); and the May 2005 Addendum to the Handbook.
- Background.** On December 20, 2006, the President signed into law the Tax Relief and Health Care Act of 2006 (P.L. 109-432). This legislation not

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only extended the WOTC Program (retroactively to January 1, 2006) through December 31, 2007, but also merged the Welfare-to-Work Tax Credit (WtWTC) into WOTC and repealed permanently Section 51(A) of the IRC. Congress also amended certain statutory definitions with respect to new hires that began to work for an employer after December 31, 2006. For additional information, see TEGL No. 20-06, dated April 3, 2007.

4. **Authorization.** The Small Business and Work Opportunity Tax Act of 2007 (P.L. 110-28) was signed into law on May 25, 2007. Section 8211 of the Act provides a 44-month extension of the WOTC Program through August 31, 2011.

Explanation of Specific Statutory Amendments and Provisions. Section 8211 of the Act:

- a. Renames the High-Risk Youth group (D) and calls it *Designated Community Resident* (DCR).
- b. Amends the statutory definition of a DCR to mean an individual certified by the state workforce agency (SWA) as having:
 - attained age 18 but not 40 on the hiring date, and
 - his/her principal place of abode within an Empowerment Zone (EZ), Renewal Community (RC), or Rural Renewal County (RRC).

Eligibility Determination of DCRs. Eligibility determination of a new hire as a member of the DCR target group involves verification of the following two requirements: 1) age; and 2) location of the individual's principal place of abode [residence] in an EZ, RC, or RRC. Age should be verified by looking at documents submitted by the employers/consultants with the request or requiring from employers one or several of the recommended documents in Section E.

Examples of Documentary Evidence., p. VII-32 of the November 2002, Third Edition, ETA Handbook 408. Verifying the residential location of a potential DCR as in an EZ, RC, or RRC requires reviewing the instructions for IRS Form 8850. EZs, RCs and RRCs are all listed in these IRS instructions. SWAs can verify whether a DCR's address is located in a Rural Renewal County on-line by visiting the following Web site at: www.usps.gov and following these simple steps:

- 1) click on *Find a ZIP Code*; 2) enter and submit the *Address and ZIP Code*; and 3) click on *Mailing Industry Information*. SWAs should download and print the U.S. Postal Service (USPS) *Mailing Industry Information* sheet, and keep a copy in the case file of the new hire, employer, or consultant.
- c. Limits “qualified wages” for *Designated Community Residents* to those paid for services performed while the individual is residing in an EZ, RC, or RRC.
- d. Defines a *Rural Renewal County* as a county that:
 - is outside a metropolitan statistical area (MSA) as defined by the Office of Management and Budget (OMB); and
 - during the five-year periods, 1990 through 1994, and 1995 through 1999, had a net population loss.
- e. Clarifies that “ticket holders” are included in the vocational rehabilitation referral target group by adding at the end of its statutory definition the following clause:
 - an individual work plan developed and implemented by an Employment Network pursuant to Subsection (g) of Section 1148 of the Social Security Act with respect to which the requirements of such Subsection are met.
- f. Expands the definition of the “Qualified Veteran” target group to include “*disabled veterans*” who are entitled to compensation for a service-connected disability and:
 - have a hiring date which is not more than one year after having been discharged or released from active duty in the Armed Forces of the United States; or
 - have aggregate periods of unemployment during the one-year period ending on the hiring date that equal or exceed six months.
- g. Defines the terms “compensation” and “service connected” as having the meanings under Section 101 of Title 38 of the United States Code, pertaining to veterans benefits as follows:

- Section 101(13) defines “compensation” as a monthly payment made by the Secretary to a veteran because of a service-connected disability; and
 - Section 101(16) defines “service-connected,” with respect to a disability, as meaning that the disability was incurred or aggravated in the line of duty in the active military, naval, or air service.
- h. Increases the amount of “qualified wages,” for *disabled veterans* only, from \$6,000 to \$12,000.
5. **Program Administration.** Under the reauthorizing legislation, SWAs certification and program operation responsibilities for the consolidated WOTC program remain the same as those described in the November 2002, Third Edition of ETA Handbook 408 and the May 2005 Addendum. 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) complying with records’ retention time periods.
6. **IRS Form 8850.** IRS Form 8850, *Pre-Screening Notice (PSN) and Certification Request for the Work Opportunity Credit*, and the instructions for this form have been revised. The June 2007, PSN form and its instructions are available at www.irs.gov.
7. **Funding.** ETA issued Fiscal Year (FY) 2007 funding advances from Continuing Resolutions (CRs) to the SWAs for WOTC Program implementation and elimination of existing backlogs. The CR advances covered activities through February 15, 2007. Funding for the merged WOTC Program was passed as part of the FY 2007 funds appropriated in the *Revised Continuing Appropriations Resolution Act of 2007* (P.L. 110-5).
8. **Reporting Authority.** Pursuant to the Paperwork Reduction Act, OMB extended the information collection requested for the WOTC/WtWTC administrative and reporting forms without substantial changes. ETA Form 9058 - Report 1 and 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, the Spanish versions of IRS Form 8850 and ETA Form 9061, the revised May 2005 Addendum to ETA Handbook 408 (the Handbook), and a revised Technical Assistance and Compliance Review Guide will be submitted to OMB for emergency clearance. Training on WOTC program amendments, provisions, and new reporting and administrative requirements is being planned and will be provided.

9. **Action Required.** SWA administrators are requested to:
 - a. Provide this information to appropriate program staff, employers, and their representatives, participating agencies (PAs), and other interested partners. They are to ensure that the SWAs and PAs administer the WOTC in accordance with the guidance provided in this TEGL, the Handbook, the May 2005 Addendum to the Handbook, and the Internal Revenue Code of 1986, Section 51, as amended; and
 - b. Ensure that state coordinators receive a copy of the new legislation, Title VIII, Part I., Subpart A., Section 8211 of the *Small Business and Work Opportunity Tax Act of 2007* (P.L. 110-28) available at <http://thomas.loc.gov/home/thomas2.html>.
10. **Inquiries.** Direct all questions to the appropriate Regional Coordinator.