

TRAINING AND EMPLOYMENT NOTICE	NO. 25-15
	DATE February 16, 2016

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE LIAISONS
UNEMPLOYMENT INSURANCE DIRECTORS

FROM: PORTIA WU /s/
Assistant Secretary

SUBJECT: Reinstatement of the Health Coverage Tax Credit (HCTC) for Eligible Trade Adjustment Assistance (TAA) Recipients and Alternative TAA (ATAA) and Reemployment TAA (RTAA) Recipients

1. **Purpose.** To advise state workforce agencies about their responsibilities related to the reinstatement of the HCTC program and information that individuals will need to confirm their status as an eligible TAA or ATAA/RTAA recipient to apply for HCTC, which is administered by the Internal Revenue Service (IRS).

2. **References.**

- The Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015), Title IV of the Trade Preferences Extension Act of 2015 (Public Law (Pub. L.) No. 114-27), enacted June 29, 2015, which amends the Trade Adjustment Assistance program under the Trade Act of 1974, Pub. L. No. 93-618, and Section 35 of the Internal Revenue Code (IRC);
- The Trade Adjustment Assistance Extension Act of 2011 (Pub. L. No. 112-40), enacted October 21, 2011;
- The Omnibus Trade Act of 2010 (Pub. L. No. 111-344), enacted December 29, 2010;
- Sections 1899A, 1899B, 1899C of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5), enacted February 17, 2009;
- The Trade Adjustment Assistance Reform Act of 2002 (TAA Reform Act) (Pub. L. No. 107-210), enacted August 6, 2002;
- Section 35 of the IRC of 1986, (26 U.S.C. 35);
- Unemployment Insurance Program Letter (UIPL) No. 2-03, *Health Insurance Tax Credit for Eligible Trade Adjustment Assistance/Trade Readjustment Allowances (TAA/TRA) Recipients*;
- UIPL No. 5-03, *Health Insurance Tax Credit for Eligible Trade Adjustment Assistance/Trade Readjustment Allowances (TAA/TRA) Recipients*;
- UIPL No. 24-03, *Implementation of the Advance Health Coverage Tax Credit (HCTC) for Eligible Trade Adjustment Assistance/Trade Readjustment Allowances (TAA/TRA) Recipients*;
- UIPL No. 33-03, *Questions and Answers About Implementation of the Advance Health Coverage Tax Credit*;

- UIPL No. 21-09, *Health Coverage Tax Credit (HCTC) for Eligible Trade Adjustment Assistance (TAA) Recipients*;
- UIPL No. 12-11, *Health Coverage Tax Credit (HCTC) for Eligible Trade Adjustment Assistance (TAA) Recipients - Expiration of the American Recovery and Reinvestment Act of 2009 Provisions Expanding HCTC*;
- UIPL No. 7-14, *Expiration of the Health Coverage Tax Credit (HCTC) for Eligible Trade Adjustment Assistance (TAA) Recipients*;
- Training and Employment Guidance Letter (TEGL) No. 11-02, *Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Act of 2002 and Changes 1, 2, and 3*;
- TEGL No. 22-08, *Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009, and Change 1*;
- TEGL No. 16-10, *Instructions for Phasing Out Changes to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009, and Changes 1 and 2*;
- TEGL No. 10-11, *Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Adjustment Assistance Extension Act of 2011 (TAAEA), and Changes 1 and 2*;
- TEGL No. 5-15, *Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015)*; and
- Training and Employment Notice (TEN) No. 15-13, *Expiration of the Health Coverage Tax Credit (HCTC) Program for Eligible Trade Adjustment Assistance (TAA) Recipients and Eligible Alternative TAA (ATAA/RTAA) Recipients or Eligible Pension Benefit Guaranty Corporation (PBGC) Recipients*.

3. **Background.** TAARA 2015 reinstated the HCTC program through January 1, 2020. Title II of the TAA Reform Act created the initial HCTC Federal income tax credit, which subsidizes private health insurance coverage for eligible PBGC recipients and individuals in the TAA program identified as:

- Eligible TAA recipients, and
- Eligible ATAA/RTAA recipients.

An “eligible TAA recipient” is defined as an individual who receives Trade Readjustment Allowances (TRA) for any day of the month or who would be eligible to receive TRA but for the fact that s/he has not exhausted his or her unemployment compensation (UC) entitlement. An “eligible ATAA/RTAA recipient” is defined as an individual who is a worker under Section 246(a)(3)(B) of the Trade Act and who is participating in the program established under paragraph (a)(1) of that section for a month and is receiving a benefit under Section 246(a)(2) of the Trade Act for that month. For the purposes of the HCTC, an individual will continue to be treated as an eligible TAA or ATAA/RTAA recipient during the first month (and only the first month) that such individual ceases to be eligible.

The American Recovery and Reinvestment Act of 2009 (Recovery Act) changed the name of ATAA to “reemployment trade adjustment assistance” (RTAA), and changed the substantive requirements for the benefits available under Section 246(a)(3)(B) of the Trade Act. As explained in Section J of Attachment A of TEGL No. 22-08, the category of individuals known as the “eligible alternative TAA recipients” includes both ATAA/RTAA recipients.

The Recovery Act also provided a *Special Rule* to amend the definition of an “eligible TAA recipient” for purposes of the HCTC.

The *Special Rule* allows coverage for an individual who:

- Has a break in approved training that *exceeds 30 days*, and the break falls within the eligibility period for receipt of TRA provided under the Trade Act, or
- Is receiving UC (which includes regular UC, Extended Benefits (EB), and any Federal supplemental compensation (as defined at 20 CFR 617.3(o))) for any day of such month and who would be eligible to receive TRA under section 231 of the Trade Act (except that s/he has not exhausted UC) for such month, *without regard to the enrollment in training requirements*.

Subtitle B of the Trade Adjustment Assistance Extension Act of 2011 extended the HCTC program as provided by the Recovery Act amendments, except that it reduced the credit from 80 percent to 72.5 percent. The HCTC program was in effect until January 1, 2014, when it expired.

TAARA 2015 provides for the same percentage credit (i.e., 72.5 percent) for HCTC that was in effect on December 31, 2013, but with other changes discussed below in Section 4. Further, TAARA 2015 provides retroactive HCTC payments to eligible TAA and ATAA/RTAA recipients who would have been qualified to receive the HCTC for the period from January 1, 2014 through June 28, 2015, and for payments prospectively from the date of enactment of TAARA 2015 (June 29, 2015) for individuals who are qualified for the HCTC.

The IRS has begun an outreach effort to inform individuals of the reinstatement of the HCTC and has posted information on the IRS website at www.irs.gov/hctc. The IRS is working with the Department of Labor’s Employment and Training Administration (ETA) to develop the method(s) that taxpayers will use to continue to receive this important credit after 2015, and we anticipate providing states with additional guidance in the near future.

- 4. Documentation of Eligible TAA or ATAA/RTAA Recipient Status - Needed to Apply for HCTC for 2014 and 2015.** The IRS initiated its outreach effort on December 1, 2015, to inform taxpayers that it will accept amended returns for tax year 2014 from potentially eligible individuals seeking HCTC. The IRS has informed ETA that in seeking HCTC, individuals who amend their 2014 tax return or submit a HCTC claim on their 2015 tax return will need to provide proof of their eligible TAA- or ATAA/RTAA-recipient status with their Form 8885, *Health Coverage Tax Credit*. The IRS has requested that states

provide proof of eligible TAA- or ATAA/RTAA-recipient status to taxpayers needing such proof for 2014 or 2015.

Proof of eligible TAA- or ATAA/RTAA-recipient status for 2014 and/or 2015 must be provided separately for each tax year. States, for establishing that an individual met such status for either year, need to confirm only that the individual received a payment for any one week in any one month during the calendar year, though for the purposes of receiving the benefits, HCTC eligibility will still be determined by the IRS on a monthly basis. The IRS will determine whether the individual is eligible for HCTC. The following information will provide proof of an individual's status as an eligible TAA or ATAA/RTAA recipient.

Date:

Eligibility Year: [Year individual was an eligible TAA or ATAA/RTAA recipient]

SSN:

First Name:

Last Name:

Claimant Address:

The state may use the sample letter provided in Attachment A to notify the eligible TAA recipients of their potential HCTC coverage.

- 5. HCTC eligibility beginning in 2016 and thereafter.** Beginning in tax year 2016, taxpayers may elect to file for HCTC with an end-of-the-year tax credit with their 2016 return, or by enrolling in the advance credit option beginning in June 2016. Once further information is received from IRS, ETA will issue additional guidance to states on HCTC.

The advance credit option will provide the 72.5 percent of the payable premium for a qualified health insurance plan as a monthly credit. This amount will be forwarded by the IRS to the qualified health insurance plan on behalf of the individual receiving advance credit. The taxpayer will be responsible for the payment of the 27.5 percent of the payable premium on a monthly basis. Until the advance tax credit option is implemented in June 2016, taxpayers must continue to pay 100% of the payable premium for qualified health insurance.

- 6. Action Requested.** State Administrators are requested to provide this information to their UI Directors, UI Benefits Managers, and other appropriate staff.
- 7. Inquiries.** Inquiries should be directed to the appropriate ETA regional office.
- 8. Attachment.** Sample Letter