

DRAFT

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

TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. XX-XX

TO: ALL STATE WORKFORCE ADMINISTRATORS
ALL STATE WORKFORCE AGENCIES
ALL STATE WORKFORCE LIAISONS

FROM: JANE OATES
Assistant Secretary

SUBJECT: Work Opportunity Tax Credit (WOTC) Information Collection Revised Reporting and Processing Forms

1. **Purpose.** To transmit to the State Workforce Agencies (SWAs) revised WOTC reporting and processing forms with instructions that were updated to reflect the new provisions in the American Taxpayer Relief Act of 2013.

2. **References.**

- Sections 309 and 327 of the American Tax Payer Relief Act of 2012 (Pub. L. 112-240);
- Section 261 of the VOW to Hire Heroes Act of 2011 (Pub. L. 112-56);
- American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5);
- Internal Revenue Code of 1986, Section 51, as amended;
- IRS Notice 2013-XX (_____, 2013);
- IRS Notice 2012-13 (February 27, 2012);
- Training and Training and Employment Guidance Letter (TEGL) No. XX-13, *Reauthorization of the Work Opportunity Tax Credit Program and Continuation of the VOW to Hire Heroes Act Veteran Groups and Provisions*;
- TEGL No. 10-12, *Guidance for Work Opportunity Tax Credit (WOTC) American Recovery and Reinvestment Act of 2009 (Recovery Act) Two Expired Target Groups' Applications*, (December 7, 2012);
- TEGL No. 4-12, *Revised Forms for the WOTC Program for Implementation of the Veterans Opportunity to Work to Hire Heroes Act of 2011 (VOW Act) Provisions and Other Program Changes*, (July 31, 2012);

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

- TEGL No. 30-11, *Information and Guidance on the Work Opportunity Tax Credit Provisions Introduced by the Veterans Opportunity to Work (VOW) to Hire Heroes Act of 2011, and IRS Guidance on Submission of Form 8850* (May 24, 2012);
- TEGL No. 15-11, *Work Opportunity Tax Credit (WOTC) Procedural Guidance During Authorization Lapse for Non-veteran WOTC Target Groups* (January 12, 2012);
- ETA Handbook No. 408, November 2002, Third Edition (the Handbook); and
- August 2009 Addendum to the Handbook.

3. **Background.** The WOTC Program, enacted by the Small Business Job Protection Act of 1996 (Pub. L. 104-188) and Section 51 of the Internal Revenue Code (IRC), was created by Congress as a tax credit incentive granted to those employers who provide an employment opportunity and training to the members of a number of targeted groups, which have, historically, faced significant barriers to employment.

On November 21, 2011, President Obama enacted into law the VOW to Hire Heroes Act of 2011 (the VOW Act) (Pub. L. 112-56). Section 261 of the VOW Act, “Returning Heroes and Wounded Warriors Work Opportunity Tax Credit,” made a series of amendments to the original Veteran target group, expanding the existing qualified veteran group, creating two types of unemployed veteran groups, increasing the wages and specific tax credits for hiring certain veterans and granting the WOTC to qualified tax-exempt organizations that hire these veterans. These changes and provisions were to expire on December 31, 2012.

The legislative authority for all WOTC non-veteran target groups and for the Empowerment Zones (EZs) expired on December 31, 2011. Residence in EZs is one of the criteria that determines eligibility for members of the summer youth and designated community resident target groups.

4. **New Legislative Provisions.** On January 3, 2013, President Obama signed into law the American Taxpayer Relief Act of 2013 (Pub. L. 112-240, 126 STAT 2313) (the Act)). Sections 309 and 327 of this Act: 1) extended retroactively the EZs from December 31, 2011 through December 31, 2013, 2) extended retroactively the WOTC non-veteran target groups from December 31, 2011 through December 31, 2013, and 3) authorized the continuation of the VOW Act expanded veteran groups and provisions through December 31, 2013. The new provisions required that three of five ETA WOTC program WOTC forms and related program materials be revised to reflect the legislative changes.

ETA requested Office of Management and Budget (OMB) approval to make minimal non-substantive changes to ETA Form 9058 - Report 1, “Certification Workload and Characteristics of Certified Individuals, Work Opportunity Tax Credit” ETA Form 9061, “Individual Characteristics Form, Work Opportunity Tax Credit,” and ETA Form 9062, “Conditional Certification, Work Opportunity

Tax Credit.” OMB approval has been granted and the revised forms are attached to this TEGGL.

5. **Revised Forms and Instructions.** ETA updated Forms 9058, 9061, and 9062 and their instructions to reflect the new provisions introduced by P.L. 112-240 as follows: 1) adding the Summer Youth group as a result of the retroactive reauthorization of the EZs, 2) inclusion of the non-veteran target groups, which were retroactively extended, 3) informing about the continuation of the VOW Act veterans’ provisions and 4) updating the revision date from June 2012 to February 2013 at the bottom right-hand corner of each page. No changes were required for ETA Form 9063, Employer Certification, and ETA Form 9065, Audit Summary Worksheet.

I. ETA Form 9058 and Instructions

**Form 9058 – Page 1, Part II. “Characteristics of Certified Individuals”
Column I. “By WOTC Target Group”:**

- Box 4. Summer Youth was added since the legislative authority for EZs and the non-veteran groups that expired on December 31, 2011 were reauthorized. The statutory definition for this group, as well as the Designated Community Resident (DCR) group, requires that the youth and the DCR reside in an EZ to be determined eligible.
- Boxes 5-11 were renumbered without changes to the contents.

Instructions:

- Page 2. **Introductions.** Line 3. Deleted “were added to.”
- Page 2. Line 4. Deleted “and provisions.”
- Page 2. **Form Updates.** The contents of this paragraph were updated by providing a brief overview of Pub. L. 112-240 enacted by the President on January 3, 2013 and explaining the retroactive extension for the non-veteran target groups and the EZs, the continuation of the VOW Act veterans’ provisions, and the updates to the form required by these extensions.
- Page 4. Section I. Added Line #4. “Enter the total number of WOTC certifications issued by the SWA during the current report period for the Summer Youth group.”
- Page 4. Section I. Renumbered Lines #5 – 11 without any changes to the contents.
- Page 4. Section J. Sentence 3 of the **Note:** Changed reference from “Line 9” to “Line 10.”

- Page 5. Section K. Column (a). Sentence 3 of the **Note:** Changed reference from “Line 9” to “Line 10.”

II. ETA Form 9061 and Instructions

Form 9061: “Individual Characteristics Form, Work Opportunity Tax Credit”

- Page 2. Box 18. Added “or Empowerment Zones” since DCRs can now once again reside in EZs because these were reauthorized through December 31, 2013 by P.L. 112-240.
- Page 2. Inserted a row and numbered it Box 19, to add the Summer Youth target group now active since the EZs were once again extended, this time, through December 31, 2013.
 - Page 2. Renumbered all boxes below Box 18 (i.e., 19-25) without any changes to the contents.

Instructions:

- Page 3. Added 24(a) to the first paragraph.
- Page 3, Boxes 12-22, Applicant Characteristics. Added information on the new legislation and added a paragraph explaining the minor changes affecting the form.
- Page 4, “Examples of Documentary Evidence and Collateral Contacts.” Added information on how to determine if the DCR or Summer Youth lives in an EZ.

III. ETA Form 9062 and Instructions

Form 9062:

- Page 1, of the “CONDITIONAL CERTIFICATION (CC), WORK OPPORTUNITY TAX CREDIT”- ETA FORM 9062”. Top Box titled: “EMPLOYERS.” Added this language: (See IRS Relief Period in **TEGL No. XX-XX** and IRS Notice xx-xx), to alert employers and their representatives about the filing relief from the statutory 28-day “timely filing requirement.”
- Page 1, Box 10. Adding language to clarify that both the code and group name should be included for the non-veteran target groups.
- Page 1, under NOTE TO EMPLOYER, Box 14. Added “Applies to the Summer Youth group only.”
- Page 1, under NOTE to EMPLOYER. Added language to reflect the new IRS relief period from the 28-day filing requirement granted to employers when filing certification requests on or before March 31, 2013.

Instructions:

- Page 2, Line 4 of the first paragraph, “CONDITIONAL CERTIFICATION (CC), WORK OPPORTUNITY TAX CREDIT”- ETA FORM 9062”. Deleted the word “veteran” and replaced it with “individual.”
 - Page 2, Box 3, “For Ex-Felon Target Group Only.” Deleted the “Note” about Box 4 not applying to veterans hired under the VOW Act.
 - Page, 2, Box 5, “SWAs’ Name and Address.” Corrected the number cited for “Box 16” by deleted “6” and replacing it with “5”. The correct box cited is now Box 15.
 - Page 2, Box 10, Target Group Code. Deleted the language instructing users that the box does not apply because the groups expired on December 31, 2011. Language was updated with information on the retroactive reauthorization of the non-veteran groups.
 - Page 2, Box 12, Veteran Target Group Code. Added “veteran” to the name of the box and the prefix “pre” to the word “certified.”
- 6. Transition Period for State Workforce Agencies and Employers.** To ensure the smooth and uninterrupted submission by employers of the certification requests for their new hires, ETA is granting a transition period that allows employers to continue to file with the SWAs the “old” ETA 9061 and 9062 forms, the “June 2012” versions with a June 30, 2015 expiration date, for a temporary period of time. SWAs, participating agencies, employers, and their representatives are encouraged to start using the OMB-approved “February 2013” versions of the revised ETA forms as soon as possible, and these forms must be used to request certifications for new employees 90 days following the publication of this TEGL. **After that date, SWAs should not accept other versions of ETA Forms 9061 or Form 9062.** During the 90-day transition period, SWAs must permit employers to continue to use the earlier “June 2012” versions of Forms 9061 and 9062.
- 7. IRS Form 8850.** The Internal Revenue Service (IRS) did not update IRS Form 8850, “Pre-Screening Notice and Certification Request for the Work Opportunity Tax Credit” or its instructions. IRS provided employers and consultants a relief period from the “28-day” statutory timely filing requirement for submitting their certification requests. This information is available in IRS Notice 2013-xx at: www.irs.gov.
- 8. Paperwork Reduction Act Notice and Reporting Authority.** The reporting ETA Form 9058 and the two processing forms, ETA 9061 and 9062, for the WOTC Program, are approved according to the Paperwork Reduction Act (PRA)

of 1995, under OMB No. 1205-0371. This authority is effective through **June 30, 2015**.

According to the PRA, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The Department of Labor notes that a Federal agency may not conduct or sponsor a collection of information, nor is the public required to respond to a collection of information unless it is approved by OMB under the PRA, and displays a currently valid OMB control number (44 U.S.C. 3507). Also, notwithstanding any other provision of law, no person shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number (44 U.S.C. 3512).

10. Action Required. SWA administrators are requested to:

- Provide this TEGL and forms to all WOTC State Coordinators and related program staff, employers and their representatives, participating agencies and other interested partners, and
- Ensure the SWAs start using the revised OMB-approved forms as outlined in this guidance.

11. Inquiries. Direct all questions to the appropriate Regional WOTC Coordinator. A directory with complete contact information is available on the WOTC program Web site at: <http://www.doleta.gov/wotc>.

12. Attachments.

- ETA Form 9058 –Report 1, “Certification Workload and Characteristics of Certified Individuals, Work Opportunity Tax Credit,”
- ETA Form 9061, “Individual Characteristics Form, Work Opportunity Tax Credit,” and
- ETA Form 9062, “Conditional Certification, Work Opportunity Tax Credit.”

All revised and administrative forms are also available on WOTC’s Web site at: <http://www.doleta.gov/business/incentives/opptax/forms.cfm>.