

# Work Opportunity Tax Credit (WOTC) Employer Guide

The Employment Development Department (EDD) is the Work Opportunity Tax Credit (WOTC) certifying agency for California employers.

## The Purpose of the Work Opportunity Tax Credit

The WOTC has two purposes:

- To promote the hiring of individuals who qualify as a member of a target group.
- To provide a federal tax credit to employers who hire these individuals.

When an employer hires an individual who meets the criteria for this program, they may be able to claim federal tax credits against wages paid.

## Target Groups that Qualify for the WOTC

Individuals hired from the following target groups **may** qualify an employer for the WOTC:

### Group A – Qualified Short-Term Recipients of Temporary Assistance to Needy Families (TANF)

Any individual who:

- Is a member of a family that received TANF benefits for any 9-month period during the 18-month period ending on the hiring date.

### Group B – Qualified Veterans

Any qualified veteran who is:

- **Ba** - a member of a family that received food stamps, i.e., Supplemental Nutrition Assistance Program (SNAP) benefits for at least a 3-month period during the 15-month period ending on the hiring date, **or**
- **Bb** - entitled to compensation for a service-connected disability hired within one year of discharge or release from active duty, **or**
- **Bc** - entitled to compensation for a service-connected disability and unemployed for a period or periods totaling at least 6 months of the year ending on the hiring date, **or**
- **Bd** - unemployed for at least 4 weeks (but less than 6 months) during the one-year period ending on the hiring date, **or**
- **Be** - unemployed for at least 6 months or more within one year of the hiring date.

**Note:** To be considered a qualified veteran for this purpose, the individual must meet these **two** standards:

- 1.) Served on active duty, not including training, in the U.S. Armed Forces for more than 180 days **or** have been discharged or released from active duty for a service-connected disability; **and**
- 2.) Not have a period of active duty, not including training, of more than 90 days that ended during the 60-day period concluding on the hiring date.

### **Group C – Qualified Ex-Felon**

Any individual who:

- Has been convicted of a felony under any statute of the United States or any state.
- Has a hire date that is not more than one year after the last date on which the individual was convicted (if not incarcerated) or was released from prison.

### **Group D – Qualified Designated Community Resident**

Any individual age 18 through 39 who, on the hire date:

- Is a resident of a designated Federal Empowerment Zone (EZ) or Rural Renewal County (RRC).

### **Group E – Qualified Vocational Rehabilitation Referral**

Any individual who:

- Has a physical or mental disability which results in a substantial barrier to employment, **and**
- Is hired within two years of receiving those services.

### **Group F – Qualified Summer Youth Employee**

Any individual who:

- Is age 16 through 17 on the hire date and is a resident of a Federal Empowerment Zone (EZ) or Rural Renewal County **and**
- Has not been employed by the same employer prior to the 90-day summer period between May 1 and September 15.

### **Group G – Qualified Food Stamp (SNAP) Recipient**

Any individual who:

- Is age 18 through 39 on the hiring date and is a member of a family who received food stamps/ Supplemental Nutrition Assistance Program (SNAP) benefits for a consecutive six-month period ending on the hiring date, **or**
- Qualifies under federal law as an “able-bodied adult without dependents” (ABAWD 1), is 18 through 39 years of age on the hiring date, **and**
- Received SNAP benefits for at least three months out of the five-month period ending on the hiring date and is no longer receiving SNAP benefits on the hiring date.

## Group H – Qualified Supplemental Security Income Recipient

Any individual who:

- Is receiving Supplemental Security Income (SSI) payments under Title XVI of the Social Security Act for any month ending within the 60-day period ending on the hiring date. **Note:** Those receiving Social Security Disability Income (SSDI) are **not** the same as SSI recipients.

## Group I – Qualified Long-Term Family Assistance Recipient

Any individual who:

- Has received Temporary Assistance to Needy Families (TANF), or a successor program, for at least 18 consecutive months ending on the hiring date, **or**
- Has received TANF for a total of at least 18 months, whether or not the months are consecutive, beginning after August 5, 1997, and whose hiring date is not more than two years after the end of the earliest 18-month period, **or**
- Whose TANF eligibility expired, and has a hiring date within two years of the TANF eligibility expiration date, but after August 5, 1997.

## Tax Credit Amounts

For Target Group(s):

- A, Ba, Bd, C, D, E, G, H, the maximum tax credit amount is a 40 percent tax credit on qualified first year wages up to \$6,000, or \$2,400 for a one-year period.
- Bb, Disabled Veteran (hired within one year of separation), the maximum tax credit amount is a 40 percent tax credit on qualified first year wages up to \$12,000 or \$4,800 for a one-year period.
- Bc, Disabled Veteran, unemployed 6 months or more, the maximum tax credit amount is a 40 percent tax credit on qualified first year wages up to \$24,000 or \$9,600 for a one-year period.
- Be, Unemployed Veteran, unemployed 6 months or more, the maximum tax credit amount is a 40 percent tax credit on qualified first year wages up to \$14,000 or \$5,600 for a one-year period.

## Retention

In order to claim the tax credit, the employee must be retained 400 hours or more for a 40 percent tax credit on qualified first year wages. For the employee that is retained at least 120 hours but less than 400 hours, a 25 percent credit is available on qualified first year wages.

## Determining Eligibility

The employer must first determine if the applicant is willing to provide the required information. Prospective employees are not required to provide information of this sort to an employer. Their participation must be voluntary. If the applicant is willing to provide the required information, have them **complete the Pre-Screening Notice and Certification Request for the Work Opportunity Credit, IRS Form 8850**. The IRS Form 8850 must be completed on or before the day the applicant is offered employment.

## Requesting Certification

If the employer believes, based on the information provided on the IRS Form 8850, that the job applicant meets the requirements for one or more target groups, complete all items on the **Individual Characteristics Form, Work Opportunity Tax Credit, ETA Form 9061**.

If the applicant has a **Conditional Certification, Work Opportunity Tax Credit, ETA Form 9062**, potential eligibility has already been determined by the EDD or a participating agency. The employer **does not** have to complete the Individual Characteristics Form, ETA Form 9061. Complete the employer portion of the Conditional Certification, ETA Form 9062, and submit it with ETA Form 8850. Mail forms to:

WOTC Center  
2901 50<sup>th</sup> Street  
Sacramento, CA 95817

## Timeframe for Submitting Form IRS 8850, ETA 9061 or 9062

The forms must be completed and signed under penalty of perjury by both the employer and the applicant **on or before the day the applicant is offered employment** and must indicate the applicant's eligibility for a target group(s). The IRS Form 8850 must contain the employer's name and Federal Tax Information Number (FEIN), and the name, Social Security number, employment hire date, and work start date of the applicant for whom the certification is requested. The forms must be submitted to the WOTC Center **no later than the 28<sup>th</sup> day after the applicant starts work**. Do **not** delay sending in the IRS Form 8850. The IRS Form 8850, with the ETA Form 9062 attached, will serve as the request for a WOTC certification and must not show any evidence of tampering with the applicant's responses.

## The WOTC Certification

If the applicant meets all the criteria, the WOTC Center will send the employer a WOTC Certification, DE 8727. If the IRS Form 8850 is timely but incomplete, the WOTC Center will notify the employer by mail and request the additional information necessary to make a WOTC eligibility determination. Otherwise, the WOTC Center will send the employer a letter denying their request for certification stating the reasons for the denial.

## Designating a WOTC Agent

If an employer wishes to authorize an intermediary, such as an accountancy firm or management consultant, to act on their behalf in the WOTC certification process, they must provide the EDD a notarized Power of Attorney. The Internal Revenue Service (IRS) Form 2848, Power of Attorney and Declaration of Employer Representative, may be used for this purpose.

## **Applicable Tax Years, Carry Back and Carry Forward**

Employers may claim the Work Opportunity Tax Credit for one or two years depending on the target group. Employers who do not take the full credit amount because of the tax liability limitation may carry back the unused credit one year and carry forward the unused credit 20 years or until the credit is used, whichever comes first.

## **Records Retention**

The employer should retain WOTC records, including application, pertinent forms, and supporting documentation, for five years from the date of the written certification from the EDD. Revoked or denied certifications must be retained for at least one year, but longer if further action or an appeal is pending. This time period conforms to the IRS "record retention required" for employment taxes, which specifies that records be kept for four years after employment taxes are due.

## **Eligibility for Former Employees or Family Members**

Employers may not request certification on former employees who have been rehired. The employee must have been WOTC-qualified and certified as such **only** the first time they were hired by the employer. No tax credit can be claimed for wages paid to relatives. The tax credit is not valid for a son or daughter, stepson or stepdaughter, brother or sister, stepbrother or stepsister, father or mother, stepfather or stepmother, niece or nephew, uncle or aunt, son-in-law or daughter-in-law, father-in-law or mother-in-law, brother-in-law or sister-in-law, descendants of any of the aforementioned, or if the employee resides in the home of the employer.

Questions regarding how to claim the Work Opportunity Tax Credit on the federal income tax return should be directed to the regional office of the IRS.

## **Penalties and Reviews**

There are some possible perjury penalties for misrepresentation. The law provides for a fine and/or imprisonment for making false statements or withholding facts. In addition, the EDD is required to take corrective action as appropriate for those employers or employees who misrepresent information on the WOTC forms. These actions may include, but are not limited to:

- Criminal action for perjury violators.
- Expansion of the eligibility audit for additional certifications issued to an employer.
- Increased documentation required for employers with high incidence of revoked certifications.

The EDD will perform monthly reviews of 10 percent of the certifications issued in the previous 30 days to verify WOTC eligibility of the employees claimed on the certifications. All certifications found to be invalid will be revoked. A notice of invalidation will be sent to the employer and the local regional office of the IRS explaining the reason for revocation.

### **Federal Empowerment Zones (EZ), Enterprise Communities (EC), and Rural Renewal Counties (RRC)**

These designations refer to an area or combination of areas meeting certain population, size, and poverty criteria. These areas can be characterized as having pervasive poverty, unemployment, and general distress. California has a number of EZs. These include, but are not limited to:

- Desert Communities Empowerment Zone
- Fresno Empowerment Zone
- Santa Ana Empowerment Zone

At this time, California has no active ECs or RRCs.

Because only certain census tracts within a ZIP Code are in an EZ, EC, or RRC, not every Summer Youth or Designated Community Resident who resides in the areas indicated above are eligible for WOTC certification.

For more information on EZs in California, or to look up an applicant's address within these areas, visit the Housing and Urban Development (HUD) website at [http://egis.hud.gov/egis/cpd/rcezec/ezec\\_open.htm](http://egis.hud.gov/egis/cpd/rcezec/ezec_open.htm). You may also link to the EZ/EC website through the EDD WOTC website. If you do not have Internet connectivity, you may contact the HUD Information Center at 1-800-998-9999 and they will check the address for you.

### **Requesting Assistance**

For more information about WOTC, contact the California WOTC Center toll-free at 1-866-593-0173 or e-mail them at [wotcsupport@edd.ca.gov](mailto:wotcsupport@edd.ca.gov). You can also visit the WOTC website at: [http://www.edd.ca.gov/jobs\\_and\\_training/work\\_opportunity\\_tax\\_credit.htm](http://www.edd.ca.gov/jobs_and_training/work_opportunity_tax_credit.htm). Forms are available through the website listed above and your local America's Job Center of California<sup>SM</sup>.

The EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Requests for services, aids, and/or alternate formats need to be made by calling 1-866-593-0173 (voice). TTY users please call California Relay Services at 711.