

Tax Bulletin 2015-4

IRS Issues Guidance on Claiming Retroactively Extended WOTC

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In Brief

The Tax Increase Prevention Act of 2014 retroactively extended the Work Opportunity Tax Credit (WOTC) for hiring eligible workers through December 31, 2014. The IRS has granted employers relief until April 30, 2015, to complete the Form 8850 request for certification of eligible employees hired during 2014. This represents an opportunity for employers who otherwise might have overlooked an eligible WOTC new hire to retroactively access this tax credit.

Background

The WOTC generally allows employers who hire members of targeted groups (e.g., qualified veterans, ex-felons, summer youth employees) a credit against income taxes based on 40% of first-year wages up to \$6,000 for a credit of up to \$2,400 per qualifying employee (the creditable wages for certain qualified veterans is increased to up to \$24,000 for a maximum credit of \$9,600). The 3% Withholding Repeal and Job Creation Act expanded the eligibility of the WOTC to tax-exempt employers who hire qualified veterans after November 21, 2011. For such tax-exempt employers, the credit is allowed against, and is limited to, the amount of the 6.2% OASDI (Social Security) tax the employer pays for all employees during the year the qualified veteran begins work. The credit is 26% (instead of 40%) of qualifying wages up to the same stated limits based on the category of qualified veteran (consequently, the maximum credit allowed is \$6,240).

Notice 2015-13

To claim the WOTC, an employer generally must submit to a state's Designated Local Agency ("DLA") a pre-screening notice (Form 8850) requesting certification that the employee is a member of a targeted group no later than the 28th day after the employee begins work. Section 51(d)(13)(A) provides that an individual is not treated as a member of a targeted group unless (1) on or before the day the individual begins work, the employer obtains certification from the DLA that the individual is a member of a targeted group; or (2) the employer completes a pre-screening notice on or before the day the individual is offered employment and submits such notice to the DLA to request certification not later than 28 days after the individual begins work.

Because the Act extended the WOTC retroactively for 2014 for members of targeted groups, employers need additional time to comply with the requirements of § 51(d)(13)(A). Accordingly, a taxable employer that hired a member of a targeted group (as defined in §§ 51(d)(2) through (10)), or a qualified tax-exempt organization that hired a qualified veteran described in § 51(d)(3), on or after January 1, 2014, and before January 1, 2015, will be considered to have satisfied the requirements of § 51(d)(13)(A)(ii) if it submits the completed Form 8850 to the appropriate DLA to request certification not later than April 30, 2015. A

timely request for certification does not eliminate the need for the employer to receive a certification before claiming the credit.

Observation: This transitional relief provides a great opportunity for employers to claim the WOTC. Employers now have until April 30, 2015 to review their recent hires and submit a Form 8850 for any employees who are discovered to be members of a targeted group.

Conclusion

The WOTC is a significant tax incentive for employers hiring new employees. The Tax Increase Prevention Act's extension of the WOTC provides additional time and incentive for employers, including tax-exempt employers, to add members of targeted groups to their payrolls. The IRS' decision to grant employers additional time to request certification for new employees allows employers to claim the credit who may have either been previously unaware of the credit or unaware of a new employee's membership in a targeted group (e.g., an employee living within an empowerment zone, enterprise community, renewal community, or rural renewal county). Employers now have until April 30, 2015 to review their recent hires and submit the Form 8850 for any discovered qualifying employees.

Prepared by: Jennifer Rohen
Reviewed by: Chris Hesse