

Part III - Administrative, Procedural, and Miscellaneous

Work Opportunity Tax Credit -- Pre-Screening Notice

Notice 96-52

This Notice provides temporary transition relief for employers with respect to the Work Opportunity Tax Credit (WOTC) that was enacted as part of the Small Business Job Protection Act of 1996, Pub. L. No. 104-188 (August 20, 1996).

BACKGROUND

The WOTC provides a tax credit for employers who hire individuals belonging to one of the following groups: (1) qualified recipients of benefits under AFDC or a successor program; (2) qualified veterans; (3) qualified ex-felons; (4) high-risk youth; (5) vocational rehabilitation referrals; (6) qualified summer youth employees; or (7) qualified food stamp recipients. See Internal Revenue Code section 51. The WOTC is effective for wages paid to qualified individuals whose first day of work for the employer is on or after October 1, 1996.

For purposes of the WOTC, a prospective employee is not considered a member of one of the targeted groups unless the individual is certified as such by a State Employment Security Agency (SESA). The SESA certification requirement may be satisfied in either of two ways:

Under one approach, an employer may receive a certification from a SESA, on or before the day the prospective employee begins work, stating that the individual is a member of a targeted group. Section 51(d)(11)(A)(i).

Under the other approach, the employer must complete a "pre-screening notice" with respect to the prospective employee on or before the day the individual is offered employment, and then, within 21 days after the individual begins work, must submit that notice, signed by the individual and the employer under penalties of perjury, to the SESA as part of a request for certification. Section 51(d)(11)(A)(ii). If an employer uses this approach, the employer must also receive a certification from the SESA that the individual is, in fact, a member of a targeted group before claiming the WOTC with respect to the individual.

The IRS on September 26, 1996, issued Form 8850, Work Opportunity Credit Pre-Screening Notice and Certification Request, to serve as the pre-screening notice. This Form will be available electronically beginning September 27, 1996, through the IRS Home Page on the World Wide Web (<http://www.irs.ustreas.gov>) or by modem directly to 703-321-8020 (not a toll-free number). Employers may also request copies of Form 8850 by calling 1-800-TAX-FORM (1-800-829-3676); however, copies of Form 8850 will not be available through this toll-free service until approximately October 15, 1996.

TEMPORARY TRANSITION RELIEF

This Notice provides temporary transition relief for employers that did not complete Form 8850 at the time a job offer was made if the following conditions are satisfied:

(1) The job offer was made on or after August 20, 1996, and on or before October 31, 1996.

(2) At the time the job offer was made, the employer reasonably believed, based on information provided by the prospective employee, that the individual was a member of a targeted group.

(3) Form 8850 is properly completed and signed by both the employer and the individual, and submitted to the SESA, by the later of (a) November 21, 1996, or (b) 21 days after the individual begins work for the employer.

An employer seeking to rely on the temporary transition relief provided by this Notice should write "FILED PURSUANT TO NOTICE 96-52" across the top of the Form 8850. The employer should also strike the words "I completed this form on or before the day a job was offered to the applicant and that" from the jurat preceding the signature line of the form.

If these conditions are satisfied, the Service will treat the Form 8850 as having been timely completed and submitted to the SESA in accordance with Code section 51(d)(11)(A)(ii). The SESA must, however, certify that the individual named in the form is, in fact, a member of a targeted group before the employer may claim the WOTC with respect to the individual.

The principal author of this Notice is Robert Wheeler of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). For further information regarding this Notice, contact Mr. Wheeler on (202) 622-6060 (not a toll-free call).