

**EMPLOYMENT AND TRAINING ADMINISTRATION
ADVISORY SYSTEM
U.S. DEPARTMENT OF LABOR
Washington, D.C. 20210**

CLASSIFICATION
WOTC/WtWTC

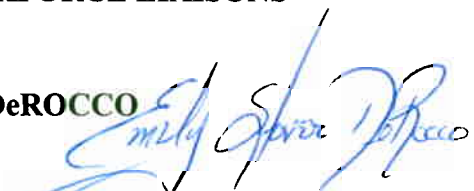
CORRESPONDENCE SYMBOL
OWI

DATE
November 29, 2004

TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 10-04

**TO: ALL STATE WORKFORCE AGENCIES
ALL STATE WORKFORCE LIAISONS**

**FROM: EMILY STOVER DeROCCO
Assistant Secretary**



**SUBJECT: Work Opportunity Tax Credit (WOTC) and Welfare-to-Work Tax Credit
(WtWTC) Guidance**

- 1. Purpose.** To announce the reauthorization of the Work Opportunity Tax Credit and the Welfare-to-Work Tax Credit under the *Working Families Tax Relief Act of 2004* (P.L. 108-311) and to transmit a policy clarification regarding acceptance and processing of certification requests for new hires who work in one state but received public assistance benefits in a different state.
- 2. References.** The *Working Families Tax Relief Act of 2004* (P.L. 108-311); the *Job Creation and Worker Assistance Act of 2002* (P.L. 107-147); TEGL No. 18-03, dated February 24, 2004; Internal Revenue Code of 1986, Sections 51 and 51A, as amended; and *ETA Handbook No. 408*, Third Edition, November 2002.
- 3. Background.** The legislative authority for the WOTC and the WtWTC expired December 31, 2003, creating a 10-month authorization lapse, or hiatus, in the program. TEGL 18-03 was issued on February 24, 2004, with procedural guidance for processing requests for certifications filed by employers/consultants during the hiatus.
- 4. Authorization.** The President signed into law the *Working Families Tax Relief Act of 2004* (P.L. 108-311) on October 4, 2004. This legislation extends the WOTC and the WtWTC, without changes, for a two-year period through December 31, 2005. The reauthorization is retroactive to December 31, 2003, and applies to new hires that begin work for an employer after December 31, 2003, and before January 1, 2006.
- 5. Program Administration.** Under the reauthorizing legislation, state workforce agency (SWA) responsibilities for these two tax credits remain the same as those outlined in the November 2002, Third Edition of *ETA Handbook No. 408*.

RESCISSIONS

EXPIRATION DATE

Continuing

The SWA responsibilities include: a) determining target group eligibility and issuing certifications, b) establishing working partnerships with different participating agencies at the state and local levels for resolving technical issues and issuing Conditional Certifications, c) conducting verification activities, d) complying with quarterly report responsibilities, and e) records retention. SWAs should begin issuing WOTC/WtWTC certifications and/or denials for hires that occurred on or after January 1, 2004.

6. **Funding.** The Congress passed a continuing resolution to fund the federal government through December 3, 2004. In addition, on November 20, 2004, the House and Senate passed an omnibus appropriations conference report (H.R. 4818) funding most domestic agencies including the Department of Labor through fiscal year 2005. The President is expected to sign the bill and appropriations will be released thereafter. Based on quarterly financial reports submitted to ETA, states should have sufficient funds to continue operations into FY 2005, and to provide uninterrupted program services to boost businesses' profitability, while also meeting their workforce needs and providing employment opportunities to economically disadvantaged job seekers. ETA will issue planning guidance in the near future for the 15-month plan covering the period from October 1, 2004 through December 31, 2005.
7. **Policy Clarification Regarding Processing New Hires With Out-of-State Benefits.** SWAs must receive, accept and fully process all employer/consultant properly completed and timely filed requests for certifications of new hires working in the state where the request is filed even though the individual received welfare or other WOTC/WtWTC target group related benefits in a different state. This includes accepting and fully processing any and all requests denied or returned to employers/consultants in the past and resubmitted to the SWAs for reconsideration so long as they were originally filed in a timely fashion and the new hire met all the statutory requirements for the specific target group category requested. This policy clarification becomes effective upon receipt of this guidance.
8. **Reporting Authority.** SWAs should submit all quarterly reports no later than 45 days following the closing date of the reporting period. All activity should be reported in the quarter in which the activity occurred. Therefore, certifications and denials issued for new hires after December 31, 2003, should be reported in the first quarter FY 2005 report. ETA Reporting Forms 9057 - 9059 and Administrative Forms 9061, 9062, 9063, and 9065 are approved under OMB No. 1205-0371, through December 31, 2004. SWAs should continue to use the current administrative and reporting forms until further notice. A three-month OMB emergency extension of this reporting authority has been granted through March 2005.
9. **Action Required.** SWA Administrators are requested to:
 - a) provide this information to appropriate program staff, employers and their consultants, participating agencies, and other interested partners;
 - b) ensure that the SWAs and participating agencies administer the WOTC and WtWTC in accordance with the guidance provided in the November 1998, Second Edition of ETA Handbook No. 408, and the Internal Revenue Code of 1986, as amended; and

c) ensure all appropriate staff in the workforce investment system receive and implement this policy clarification for employer/consultant certification requests submitted for the WOTC and the WtWTC.

10. **Inquiries.** Direct all questions to the appropriate Regional WOTC/WtWTC Coordinator.

11. **Attachments.**

The Working Families Tax Relief Act of 2004 (P.L. 108-311), Section 303.

Attachment

WOTC Section of The Working Families Tax Relief Act of 2004

SEC. 303. WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT.

(a) EXTENSION OF CREDIT-

(1) IN GENERAL- Section 51(c)(4) is amended by striking 'December 31, 2003' and inserting 'December 31, 2005'.

(2) LONG-TERM FAMILY ASSISTANCE RECIPIENTS- Section 51A(f) is amended by striking 'December 31, 2003' and inserting 'December 31, 2005'.

(b) EFFECTIVE DATE- The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2003.