

Notice 2013-14

I. PURPOSE

This notice provides guidance on § 309 of the American Taxpayer Relief Act of 2012 (the Act), Pub. L. No. 112-240, enacted on January 3, 2013, and transition relief for employers claiming the Work Opportunity Tax Credit (the WOTC) under §§ 51 and 3111(e) of the Internal Revenue Code (the Code), as extended by the Act. Section 309 of the Act amended § 51 to extend the WOTC through December 31, 2013, for taxable employers and for qualified tax-exempt organizations. Specifically, this notice provides employers that hire members of targeted groups additional time beyond the 28-day deadline in § 51(d)(13) of the Code for submitting Form 8850, Pre-screening Notice and Certification Request for the Work Opportunity Credit, to Designated Local Agencies (DLAs).

II. BACKGROUND

Section 51 of the Code provides for the WOTC for employers that hire individuals who are members of targeted groups. An employer must obtain certification that an individual is a targeted group member before the employer may claim the credit. Certification of an individual's targeted group status is obtained from a DLA. A DLA is a State employment security agency established in accordance with 29 U.S.C. §§ 49-49n. An employer must submit Form 8850 to the DLA not later than the 28th day after the individual begins work for the employer.

The Returning Heroes and Wounded Warriors Work Opportunity Tax Credits, contained in § 261 of the VOW to Hire Heroes Act of 2011, Tit. II, subtitle D, of Pub. L. No. 112-056 (the VOW Act), enacted on November 21, 2011, amended § 51 of the Code to extend and expand the WOTC to employers hiring certain qualified veterans (as defined in § 51(d)(3)) before January 1, 2013. The VOW Act did not extend the WOTC for targeted group members other than qualified veterans. Thus, the WOTC was not available with respect to targeted group members who began work after December 31, 2011, other than qualified veterans.

The VOW Act also amended §§ 52 and 3111 to make a reduced WOTC available to organizations described in § 501(c) and exempt from taxation under § 501(a) ("qualified tax-exempt organizations") as a credit against the employer share of social security tax imposed under § 3111(a). The reduced credit is available for qualified tax-exempt organizations that hire qualified veterans for which the WOTC would have been allowable under § 51 if the organization were not a qualified tax-exempt organization. The credit was first available to qualified tax-exempt organizations for qualified veterans hired on or after November 21, 2011. For additional guidance on the WOTC for qualified tax-exempt organizations and changes made to the WOTC under the VOW Act, see Notice 2012-13, 2012-9 I.R.B. 421.

Notice 2012-13 provided transition relief for all employers that hired any qualified veteran described in § 51(d)(3) of the Code on or after November 22, 2011, and before May 22, 2012. Those employers were considered to have satisfied the requirements of § 51(d)(13)(A)(ii) if they submitted the completed Form 8850 to the DLA to request certification not later than June 19, 2012.

III. AMENDMENTS MADE BY THE ACT

The Act extends the WOTC through December 31, 2013, for taxable employers hiring individuals in targeted groups as defined in § 51(d)(1) through (d)(10) of the Code, and for qualified tax-exempt organizations hiring qualified veterans as defined in § 51(d)(3) of the Code. This extension does not apply to the “unemployed veterans” or “disconnected youth” targeted group categories (as defined in § 51(d)(14) of the Code), which had expired as of January 1, 2011. As mentioned above, during 2012, the WOTC was available for employers hiring qualified veterans, and not for hiring members of other targeted groups. Thus, the Act retroactively extended the availability of the WOTC for taxable employers who hired individuals from those other targeted groups in 2012.

Because the Act did not amend §§ 52 or 3111(e), qualified tax-exempt organizations may continue to claim the WOTC under § 3111(e) only for hiring qualified veterans, and not for hiring any other targeted group members.

IV. TRANSITION RELIEF

Section 51(d)(13)(A) of the Code provides that an individual shall not be 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 (Form 8850) 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 WOTC was extended retroactively for 2012 for members of targeted groups (other than qualified veterans), employers need additional time to comply with the

requirements of § 51(d)(13)(A) for those targeted groups. Similarly, because the WOTC for qualified veterans was set to expire for qualified veterans hired after December 31, 2012, employers that hire qualified veterans after December 31, 2012, may also need additional time to comply with the requirements of § 51(d)(13)(A). For these reasons, the Treasury Department and the IRS have determined that it is appropriate to provide employers with additional time to file Form 8850 with a DLA.

(1) Transition relief for taxable employers that hire members of targeted groups (other than qualified veterans)

A taxable employer that hires a member of a targeted group (as defined in § 51(d)(2) through (10), other than a qualified veteran described in § 51(d)(3)) on or after January 1, 2012, and on or before March 31, 2013, will be considered to have satisfied the requirements of § 51(d)(13)(A)(ii) if it submits the completed Form 8850 to the DLA to request certification not later than April 29, 2013.

(2) Transition relief for all employers that hire qualified veterans

An employer that hires any qualified veteran described in § 51(d)(3) on or after January 1, 2013, and on or before March 31, 2013, will be considered to have satisfied the requirements of § 51(d)(13)(A)(ii) if it submits the completed Form 8850 to the DLA to request certification not later than April 29, 2013.

DRAFTING INFORMATION

The principal authors of this notice are Shoshanna Tanner and Ligeia Donis of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding the WOTC, contact Ms. Tanner at (202) 622-6080

(not a toll-free number). For further information on how to claim the WOTC on behalf of tax-exempt organizations, contact Ms. Donis at (202) 622-6040 (not a toll-free number).