

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WOTC
	CORRESPONDENCE SYMBOL OWI
	DATE June 14, 2013

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 34-12

TO: STATE WORKFORCE ADMINISTRATORS
STATE WORKFORCE AGENCIES
STATE WORKFORCE LIAISONS

FROM: Gerri Fiala /s/
Acting Assistant Secretary

SUBJECT: Work Opportunity Tax Credit (WOTC) Information Collection Revised Reporting and Processing Forms

1. **Purpose.** To transmit revised WOTC reporting and processing forms to State Workforce Agencies (SWAs), with instructions updated to reflect the new provisions in the American Taxpayer Relief Act of 2012, and provide procedural guidance.

2. **References.**

- Sections 309 and 327 of the American Taxpayer Relief Act of 2012 (Pub. L. 112-240);
- Section 261 of the VOW to Hire Heroes Act of 2011 (Title II of Pub. L. 112-56);
- American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5);
- Internal Revenue Code of 1986, Section 51, as amended;
- IRS Notice 2013-14 (March 7, 2013);
- IRS Notice 2012-13 (February 27, 2012);
- Training and Training and Employment Guidance Letter (TEGL) No. 24-12, *Reauthorization of the Work Opportunity Tax Credit Program and Continuation of the VOW to Hire Heroes Act Veteran Groups and Provisions* (May 1, 2013);
- TEGL No. 10-12, *Guidance for Work Opportunity Tax Credit (WOTC) American Recovery and Reinvestment Act of 2009 (Recovery Act) Two Expired Target Groups' Applications* (December 7, 2012);
- TEGL No. 4-12, *Revised Forms for the WOTC Program for Implementation of the Veterans Opportunity to Work to Hire Heroes Act of 2011 (VOW Act) Provisions and Other Program Changes* (July 31, 2012);
- TEGL No. 30-11, *Information and Guidance on the Work Opportunity Tax Credit Provisions Introduced by the Veterans Opportunity to Work (VOW) to Hire Heroes Act of 2011, and IRS Guidance on Submission of Form 8850* (May 24, 2012);
- TEGL No. 15-11, *Work Opportunity Tax Credit (WOTC) Procedural Guidance During Authorization Lapse for Non-veteran WOTC Target Groups* (January 12, 2012); and

RESCISSIONS None	EXPIRATION DATE Continuing
----------------------------	--------------------------------------

- ETA Handbook No. 408, November 2002, Third Edition (the Handbook) and August 2009 Addendum to the Handbook.

- 3. Background.** The WOTC program, enacted by the Small Business Job Protection Act of 1996 (Pub. L. 104-188) and Section 51 of the Internal Revenue Code (IRC), was created by Congress as a tax credit incentive granted to those employers who provide employment opportunities to members of a number of target groups, who have historically faced significant barriers to employment.

On November 21, 2011, President Obama enacted the VOW to Hire Heroes Act of 2011 (VOW Act). Section 261 of the VOW Act, “Returning Heroes and Wounded Warriors Work Opportunity Tax Credit,” made a series of amendments to the original veteran target group, expanding the existing qualified veteran group, creating two types of unemployed veteran groups, increasing the wages and specific tax credits for hiring certain veterans, and granting WOTC to qualified tax-exempt organizations that hire these veterans. These changes and provisions were to expire on December 31, 2012.

The legislative authority for all WOTC non-veteran target groups and for the Empowerment Zones (EZs) expired on December 31, 2011, and subsequently reauthorized. Residence in EZs is one of the criteria that determine eligibility for members of the Summer Youth and Designated Community Resident (DCR) target groups.

- 4. New Legislative Provisions.** On January 2, 2013, President Obama signed into law the American Taxpayer Relief Act of 2012. Section 327 reauthorizes EZs and Section 309 reauthorizes the extension of the WOTC program.

In summary, this legislation:

- Continues the uninterrupted implementation of all veteran target groups, including those implemented under the VOW Act through December 31, 2013.
- Retroactively reauthorizes all WOTC non-veteran target groups from December 31, 2011 through December 31, 2013.
- Provides legislative authorization for EZs from December 31, 2011 through December 31, 2013. (See [TEGL No. 24-12](#) for more detailed information on the status of EZs).
- Does not reauthorize the Recovery Act disconnected youth and Recovery Act unemployed veteran target groups that expired at the end of 2010.

The new provisions required that three of five Employment and Training Administration (ETA) WOTC program forms be revised to reflect the legislative changes. ETA requested Office of Management and Budget (OMB) approval to make minimal, non-substantive changes to ETA Form 9058 - Report 1, “Certification Workload and Characteristics of Certified Individuals, Work Opportunity Tax Credit;” ETA Form 9061, “Individual Characteristics Form, Work Opportunity Tax Credit;” and ETA Form 9062, “Conditional

Certification, Work Opportunity Tax Credit.” ETA received OMB approval to use the revised forms attached to this TEGl.

- 5. Revised Forms and Instructions.** ETA updated Forms 9058, 9061, and 9062 and their instructions to reflect the new provisions introduced by Pub. L. 112-240 as follows: 1) adding the Summer Youth group as a result of the retroactive reauthorization of the EZs, 2) inclusion of the non-veteran target groups, which were retroactively extended, 3) information about the continuation of the VOW Act veterans’ provisions, and 4) updating the revision date from June 2012 to April 2013 at the bottom right-hand corner of each page. No changes were required for ETA Form 9063, “Employer Certification,” and ETA Form 9065, “Audit Summary Worksheet.” The specific changes are listed below.

I. ETA Form 9058 and Instructions

Form 9058 – “Certification Workload and Characteristics of Certified Individuals”:

- Page 1, Part II, Column I, By WOTC Target Group, Box 4. Summer Youth was added since the legislative authority for EZs and the non-veteran groups that expired on December 31, 2011 were reauthorized. Residence in EZs is one of the criteria that determine eligibility for members of the Summer Youth and DCR target groups.
- Boxes 5-11 were renumbered without changes to the contents.

Instructions:

- Page 2, Introductions, Line 3. Deleted “were added to.”
- Page 2, Line 4. Deleted “and provisions.”
- Page 2, Form Updates. The contents of this paragraph were updated by providing a brief overview of Pub. L. 112-240 enacted by the President on January 2, 2013 and explaining the retroactive extension for the non-veteran target groups and the EZs, the continuation of the VOW Act veterans’ provisions, and the updates to the form required by these extensions.
- Page 4, Section I. Added Line #4. “Enter the total number of WOTC certifications issued by the SWA during the current report period for the Summer Youth group.”
- Page 4, Section I. Renumbered Lines #5 – 11 without any changes to the contents.
- Page 4, Section J, line 3 of the “Note”. Changed reference from “Line 9” to “Line 10.”
- Page 5, Section K, Column (a), line 3 of the “Note”. Changed reference from “Line 9” to “Line 10.”

II. ETA Form 9061 and Instructions

Form 9061 – “Individual Characteristics Form, Work Opportunity Tax Credit”:

- Page 2, Box 18. Added “or Empowerment Zones” since DCRs can now once again reside in EZs because these were reauthorized through December 31, 2013 by Pub. L. 112-240.
- Page 2. Inserted a row and numbered it Box 19, to add the Summer Youth target group now active since the EZs were reauthorized through December 31, 2013 by Pub. L. 112-240.
- Page 2. Renumbered all boxes below Box 18 (i.e., 19-25) without any changes to the contents.

Instructions:

- Page 3. Added 24(a) to the first paragraph.
- Page 3, Boxes 12-22, Applicant Characteristics. Added information on the new legislation and added a paragraph explaining the minor changes affecting the form.
- Page 4, “Examples of Documentary Evidence and Collateral Contacts.” Added information on how to determine if the DCR or Summer Youth lives in an EZ.

III. ETA Form 9062 and Instructions

Form 9062 – “Conditional Certification”:

- Page 1, Top Box titled: “EMPLOYERS.” Added this language: (See IRS Relief Period in TEG L No. 24-12 and IRS Notice 2013-14), to alert employers and their representatives about the filing relief from the statutory 28-day “timely filing requirement.”
- Page 1, Box 10. Adding language to clarify that both the code and group name should be included for the non-veteran target groups.
- Page 1, under NOTE TO EMPLOYER, Box 14. Added “Applies to the Summer Youth group only.”
- Page 1, under NOTE to EMPLOYER. Added language to reflect the new IRS relief period from the 28-day filing requirement granted to employers when filing certification requests on or before March 31, 2013.

Instructions:

- Page 2, Line 4. Deleted the word “veteran” and replaced it with “individual.”
- Page 2, Box 3, “For Ex-Felon Target Group Only.” Deleted the “Note” about Box 4 not applying to veterans hired under the VOW Act.
- Page, 2, Box 5, “SWAs’ Name and Address.” Corrected the number cited from “Box 16” to “Box 15.”
- Page 2, Box 10, Target Group Code. Deleted the language instructing users that the box does not apply because the groups expired on December 31, 2011. Language was updated with information on the retroactive reauthorization of the non-veteran groups.

- Page 2, Box 12, Veteran Target Group Code. Added “veteran” to the name of the box and the prefix “pre” to the word “certified.”

6. **Transition Period for State Workforce Agencies and Employers.** To ensure the smooth and uninterrupted submission by employers of the certification requests for their new hires, ETA is granting a transition period that allows employers to continue to file with the SWAs the “old” ETA 9061 and 9062 forms from June 2012, for a temporary period. SWAs, participating agencies, employers, and their representatives are encouraged to start using the OMB-approved April 2013 versions of the revised ETA forms as soon as possible, and use of these forms are required to request certifications for new employees 90 days following the publication of this TEGL. **After that date, SWAs should not accept other versions of ETA Forms 9061 or Form 9062.** During the 90-day transition period, SWAs must permit employers to continue to use either the earlier June 2012 or the revised April 2013 versions of Forms 9061 and 9062.
7. **IRS Form 8850.** On April 1, 2013, the IRS released a substantively unchanged Form 8850 and revised instructions for that form. The form and instructions are available at: www.irs.gov/form8850.
8. **Paperwork Reduction Act (PRA) of 1995 Notice and Reporting Authority.** OMB approved the reporting form, ETA 9058, and the two processing forms, ETA 9061 and 9062, for the WOTC program, according to PRA, under OMB No. 1205-0371. This authority is effective through June 30, 2015.

According to PRA, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The Department of Labor notes that a Federal agency may not conduct or sponsor a collection of information, nor is the public required to respond to a collection of information unless it is approved by OMB under the PRA, and displays a currently valid OMB control number (44 U.S.C. 3507). Also, notwithstanding any other provision of law, no person shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number (44 U.S.C. 3512).

9. **Action Requested.** SWA administrators are requested to:
 - Provide this TEGL and forms to all WOTC State Coordinators and related program staff, employers and their representatives, participating agencies and other interested partners, and
 - Ensure the SWAs start using the revised OMB-approved forms within the timeframes outlined in this guidance.
10. **Inquiries.** Direct all questions to the appropriate Regional WOTC Coordinator. A directory with complete contact information is available on the WOTC program Web site at: http://www.doleta.gov/business/incentives/opptax/Regional_Contacts.cfm.

11. Attachments.

- ETA Form 9058 – Report 1, “Certification Workload and Characteristics of Certified Individuals, Work Opportunity Tax Credit”
- ETA Form 9061, “Individual Characteristics Form, Work Opportunity Tax Credit”
- ETA Form 9062, “Conditional Certification, Work Opportunity Tax Credit”

All reporting and processing forms are also available on WOTC’s Web site at:

<http://www.doleta.gov/business/incentives/opptax/forms.cfm>.