

TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: REAUTHORIZATION OF THE WOTC PROGRAM

**SUBJECT MATTER HIGHLIGHTS**

The Employment Development Department (EDD) announces the reauthorization of the Work Opportunity Tax Credit under the *Tax Increase Prevention Act of 2014* and provides guidance on current program eligibility guidelines.

PLEASE NOTE

This draft directive will supersede Workforce Investment Act Directive WIAD06-19, dated May 02, 2007.

COMMENTS DUE

August 14, 2015

Comments can be submitted through one of the following ways:

<b>Fax</b>	WSD, Attention: <b>Ramon Valencia</b> at 916-654-9753
<b>E-Mail</b>	<a href="mailto:ramon.valencia@edd.ca.gov">ramon.valencia@edd.ca.gov</a> (Include "draft comments" in the subject line)
<b>Mail</b>	WSD / P.O. Box 826880 / MIC 69 / Sacramento, CA 94280-0001

All comments received by the end of the comment period will be considered before the final directive is issued. The Workforce Services Branch does not respond individually to each comment received. However, a summary of comments will be released with the final directive. **Comments received after the specified due date will not be considered.**

If you have any questions, contact Ramon Valencia at 916-654-6111.

# WORKFORCE SERVICES DRAFT DIRECTIVE

Number: WSDD-121

Date: July 27, 2015

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TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: REAUTHORIZATION OF THE WOTC PROGRAM

## EXECUTIVE SUMMARY

### Purpose

The Employment Development Department (EDD) announces the reauthorization of the Work Opportunity Tax Credit (WOTC) under the *Tax Increase Prevention Act of 2014* and provides guidance on current program eligibility guidelines.

### Scope

This directive applies to all Local Workforce Development Areas (local areas).

### Effective Date

This directive is effective on the date of issuance.

## REFERENCES

- *Tax Increase Prevention Act of 2014* (Public Law 113-295)
- Training and Employment Guidance Letter (TEGL) 28-14: *Reauthorization of the WOTC Program for 2014 and Authorization Lapse for 2015* (April 17, 2015)
- Internal Revenue Service (IRS) Notice 2015-13: *WOTC Extension for 2014* (February 19, 2015)

## STATE-IMPOSED REQUIREMENTS

None.

## FILING INSTRUCTIONS

This directive supersedes *Workforce Investment Act Directive* WIAD06-19, dated May 02, 2007. Retain this directive until further notice.

The EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.

## BACKGROUND

President Obama signed the *Tax Increase Prevention Act of 2014* on December 19, 2014. The act retroactively reauthorized an extension of the WOTC program and the Empowerment Zones (EZ) from December 31, 2013, through December 31, 2014.

The WOTC program is a federal tax credit available to employers for hiring individuals from certain target groups (Attachment 1) who have consistently faced significant barriers to employment. The tax credit is based off of the qualified wages paid to, or incurred on behalf of, the target group individual. The amount of the tax credit depends on several factors, including the individual's target group, the amount of wages earned, and the number of hours worked.

The U.S. Department of the Treasury and the U.S. Department of Labor (DOL) jointly administer the WOTC program at the federal level. In California, the EDD is the State Workforce Agency (SWA) that serves as the designated local agency responsible for issuing the final certifications for the WOTC program.

## POLICY AND PROCEDURES

### Procedural Guidance for 2014 Hires

The *Tax Increase Prevention Act of 2014* retroactively extended the WOTC Program to apply to certified new hires that began work on or after December 31, 2013, and before January 1, 2015. The DOL issued [TEGL 28-14](#) to provide guidance on processing WOTC applications for that time period. As the designated SWA for California, EDD is authorized to issue final determinations on all timely filed certification requests for new hires that began work before January 1, 2015.

The IRS also provided guidance on the WOTC extension through issuance of [IRS Notice 2015-13](#). The notice provides taxable employers, and some tax-exempt 501(c) organizations, with transition relief from the 28-day timely filing requirement for 2014 WOTC applications. The transition relief allows any 2014 WOTC application to be considered as "timely," as long as the employer submitted the application to the EDD WOTC Center no later than April 30, 2015. Local areas should advise employers and their agents/consultants that any 2014 WOTC applications submitted before, or postmarked by, April 30, 2015 will be considered.

### Procedural Guidance for Current Authorization Lapse/Hiatus

TEGL 28-14 also provides guidance for WOTC applications during the authorization lapse of 2015 and beyond. Due to the fact that the recent WOTC reauthorization expired on December 31, 2014, the WOTC program remains in hiatus as of January 1, 2015, pending legislation to extend the program. However, the EDD will continue to accept WOTC applications in anticipation of another retroactive reauthorization. Similarly, local areas should encourage employers and their agents/consultants to continue to submit WOTC applications during the current lapse in the case of another reauthorization.

Furthermore, should the program be retroactively reauthorized, any WOTC applications filed during the lapse will still need to have followed the 28-day timely filing requirement. Therefore, local areas should instruct employers and their agents/consultants to continue to submit WOTC

applications within the 28-day timely filing requirement. Although the IRS provided transition relief of the 28-day filing requirement for 2014 WOTC applications with the previous reauthorization, future transition relief may **NOT** be provided.

### WOTC Certification

To claim credit for hiring a qualified target group employee under the WOTC Program, an employer must complete two forms, the *Pre-Screening Notice and Certification Request*, [IRS Form 8850](#), and the *Individual Characteristics Form*, [DOL-ETA Form 9061](#). These two forms contain information on the prospective employee and must be completed **on or before** the day the individual is offered employment. Additionally, within 28 calendar days\* of the individual starting work, the employer must submit the forms to the EDD WOTC Center in order for the application to be considered “timely.”

The required forms can be submitted through either method listed below:

Mail: Work Opportunity Tax Credit Center  
Employment Development Department  
2901 50<sup>th</sup> Street  
Sacramento, CA 95817

Online: <http://www.edd.ca.gov/WOTC>

The WOTC Center will then verify the information and determine whether the individual is a qualifying member of a targeted group.

*\*If the 28<sup>th</sup> day falls on a weekend or legal holiday, then the 28<sup>th</sup> day is considered the next business day.*

### Conditional Certifications

An employer may receive a *Conditional Certification (CC)*, [DOL-ETA Form 9062](#), for a prospective hire if the EDD or a participating agency (PA) determines that a job-ready applicant is tentatively eligible as a member of a target group under WOTC.

Only the EDD or a PA/PA designated staff can issue a CC, without modification, to show eligibility pre-determination was made for an individual. The issuance of a CC is not a guarantee of certification. The purpose of the CC is to serve as an official record of the pre-certification, to alert employers to the potential availability of a tax credit if the individual is hired, and to provide a means for employers to request WOTC certification for the individual. If the prospective employee is hired, the employer would submit the DOL ETA Form 9062 in lieu of the DOL-ETA Form 9061.

A PA is a federal, state, or local government agency, or a grantee of these agencies, that has entered into a memorandum of understanding with EDD for the issuance of CCs. The EDD has the authority to designate, train, and audit PAs. Current PA/PA designated staff include California Department of Rehabilitation Vocational Rehabilitation Counselors, EDD Local Veteran Employment and Disabled Veteran Outreach Program Representatives, and EDD Veteran Service Navigators. All PA/PA designated staff must receive the required training

provided by the EDD WOTC Center and may only issue CCs for the target groups they have acknowledged an expertise with.

For more information about PA designation or alternatives to CC issuing authority contact the WOTC Customer Service Help Desk at 866-563-0173 (toll free) or email them at [WOTCSupport@edd.ca.gov](mailto:WOTCSupport@edd.ca.gov).

### **ADDITIONAL INFORMATION**

For more information on the WOTC program, contact the WOTC Customer Service Help Desk at 866-563-0173 (toll free) or visit the following websites:

#### [California WOTC](#)

General information about the WOTC program, eWOTC enrollment, online submission, application search, and FAQ's

#### [DOL WOTC](#)

In-depth WOTC guidance, WOTC Forms, tax credit calculation, marketing materials, YouTube videos, and FAQ's

#### [IRS WOTC](#)

Program updates, certification filing instructions, and FAQ's

### **ACTION**

Bring this directive to the attention of appropriate staff.

### **INQUIRIES**

If you have any questions, please contact your [Regional Advisor](#), at 916-654-7799. Inquires relating to CCs may be addressed to Rick Helmer, WOTC State Coordinator, at 916-277-2743.

/S/ JOSÉ LUIS MÁRQUEZ, Chief  
Central Office Workforce Services Division

Attachment is available on the Internet:

[WOTC Target Groups](#)