

REAUTHORIZATION OF THE WOTC PROGRAM

GENERAL INSTRUCTIONS

The attached directive is being issued in draft to give the Workforce Development Community the opportunity to review and comment prior to final issuance.

Submit any comments by email or mail no later than October 17, 2016.

All comments received within the comment period will be considered before issuing the final directive. Commenters will not be responded to individually. Rather, a summary of comments will be released with the final directive.

Comments received after the specified due date will not be considered.

Email Scott.Osborne@edd.ca.gov
Include "Draft Directive Comments" in the email subject line.

Mail Employment Development Department
Attn.: Workforce Services Branch
P.O. Box 826880 / MIC 50
Sacramento, CA 94280-0001

If you have any questions, contact Scott Osborne at 916-654-9762.

D REAUTHORIZATION OF THE WOTC PROGRAM

EXECUTIVE SUMMARY

This policy provides guidance and procedures regarding reauthorization of the Work Opportunity Tax Credit (WOTC) under the *Protecting Americans from Tax Hikes Act of 2015* (PATH Act). It also introduces the new Qualified Long-Term Unemployment Recipient (QLTUR) target group and provides information on current eligibility guidelines for all WOTC target groups. This directive applies to Employment Development Department (EDD), Participating Agency (PA), and other CalJOBSSM staff. This directive is effective on the date of issuance.

This policy contains no state-imposed requirements.

This policy supersedes Workforce Services Directive *Reauthorization of the WOTC Program* (WSD15-04), dated September 29, 2015. Retain this directive until further notice.

REFERENCES

- PATH Act (Public Law 114-113)
- Title 26 United States Code (USC) Section 3111(a)
- Training and Employment Guidance Letter (TEGL) 25-15, Subject: *WOTC 2015 Reauthorization* (June 17, 2016)
- Internal Revenue Service (IRS) Notice 2016-40, Subject: *WOTC Additional Transition Relief* (June 17, 2016)
- IRS Notice 2016-22, Subject: *WOTC Guidance and Transition Relief* (March 7, 2016)

BACKGROUND

President Obama signed the PATH Act on December 18, 2015, which retroactively reauthorized an extension of the WOTC program and the Empowerment Zones from December 31, 2014, through December 31, 2019, and introduced the new QLTUR target group.

The WOTC program is a federal tax credit available to employers for hiring individuals from specified target groups (Attachment 1) who have consistently faced significant barriers to employment. The tax credit is based on the qualified wages paid to, or incurred on behalf of, a

target group member. 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 Department of Labor Employment and Training Administration (DOL) jointly administer the WOTC program at the federal level. In California, the EDD serves as the designated agency responsible for issuing the final certifications for the WOTC program.

POLICY AND PROCEDURES

The PATH Act retroactively extended the WOTC program to apply to certified new hires that began work on or after December 31, 2014, and before January 1, 2020. The DOL issued [TEGL 25-15](#) to provide guidance on processing WOTC applications for that time period. As the designated agency for California, the EDD is authorized to issue final determinations on all timely filed certification requests for new hires that began work before January 1, 2020.

The IRS also provided guidance on the WOTC extension through issuance of [IRS Notice 2016-22](#) and [IRS Notice 2016-40](#). The notices provide employers, and some tax-exempt 501(c) organizations, with transition relief from the 28-day timely filing requirement for 2015 and 2016 WOTC applications. The transition relief allows any WOTC application with a hire date between January 1, 2015, and August 31, 2016, to be considered as "timely," as long as the employer submitted the application to the EDD WOTC Center no later than September 28, 2016. Employers and their agents/consultants need to be advised that any 2015 and 2016 WOTC applications submitted (or postmarked) no later than September 28, 2016, will be considered.

New Qualified Long-term Unemployment Recipient Target Group

The PATH Act introduced the new QLTUR target group to the existing nine target groups. A QLTUR is defined as any individual who is currently in a period of unemployment that is (a) not less than 27 consecutive weeks, and (b) includes a period in which the individual was receiving unemployment compensation under state or federal law. This additional target group does not apply for purposes of qualified tax-exempt organizations taking the credit provided by Title 26 USC Section §3111(a), against an employer social security tax.

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.” If the 28th day falls on a weekend or legal holiday, then the next business day will be considered the 28th day.

The DOL also introduced the *Long-Term Unemployment Recipient Self-Attestation Form* ([DOL-ETA Form 9175](#)) to assist in the certification of this target group. This self-attestation form is to be completed and signed by the individual on the day in which they are completing the IRS Form 8850 and submitted with the aforementioned IRS Form 8850 and DOL-ETA Form 9061.

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

Mail Work Opportunity Tax Credit Center
 Employment Development Department
 2901 50th Street
 Sacramento, CA 95817

Online www.edd.ca.gov/WOTC

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

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.

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 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 designated staff must receive the required training provided by the EDD WOTC Center and may only issue CCs for the target groups for which they have acknowledged expertise.

Only the EDD or a PA designated staff can issue a CC 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.

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 WOTCsupport@edd.ca.gov.

Additional Information

For more information about 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 FAQs.

[DOL WOTC](#)

In-depth WOTC guidance, WOTC Forms, tax credit calculation, marketing materials, YouTube videos, and FAQs.

[IRS WOTC](#)

Program updates, certification filing instructions, and FAQs.

ACTION

Bring this directive to the attention of appropriate staff.

INQUIRIES

If you have any questions, contact your [Regional Advisor](#). Inquiries relating to CCs may be addressed to the WOTC State Coordinator, at 916-227-5153.

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

Attachments are available on the internet:

1. [Work Opportunity Tax Credit Target Groups](#)