

## **TAX ALERT: IRS OFFERS GUIDANCE TO EMPLOYERS WHO PLAN TO CLAIM THE WOTC**

The IRS has recently granted “transitional relief” to eligible employers who are planning to claim the Work Opportunity Tax Credit (WOTC). The relief outlined in IRS Notice 2016-22 comes in the form of an extended deadline — until June 29, 2016 — to file a form necessary to claim the credit for certain eligible workers.

### **Background**

The Protecting Americans from Tax Hikes Act of 2015 (the PATH Act) extended the WOTC through December 31, 2019. The WOTC is a federal income tax credit ranging from \$2,400 to \$9,600 that is available for businesses that hire individuals who are members of one of nine targeted groups. The targeted group[s] include the following:

1. Family members receiving assistance under the Temporary Assistance to Needy Families program
2. Designated community residents
3. Vocational rehabilitation referrals
4. Qualified ex-felons
5. Qualified summer youth employees
6. Qualified food and nutrition recipients
7. Qualified Supplemental Social Security recipients
8. Long-term family assistance recipients
9. Qualified veterans

The PATH Act also expanded the WOTC beginning this year making it available to employers that hire qualified individuals who have been unemployed for 27 weeks or more including the time in which the individual was receiving unemployment compensation.

The specific amount of the WOTC available to employers depends on the:

- Target group of the individual hired,
- wages paid to that individual, and

- number of hours that the newly-hired individual worked during the first year of employment.

The amount of the WOTC available for each member of a target group hired is generally \$2,400 per employee. However, the WOTC can be as high as \$9,600 per qualified veteran. There is also no cap on the number of eligible individuals who can be hired.

## **Qualifications**

Employers that hired targeted group members can claim the WOTC as a general business credit against their income tax. Nonprofit organizations may be eligible for a credit against their payroll tax liabilities. In either case, an employee will not be treated as a member of a targeted group for WOTC purposes unless the employer obtains certification from the Designated Local Agency (DLA) that the employee is a target group member or the employer completes IRS Form 8850, "Pre-Screening Notice and Certification Request for the Work Opportunity Credit". Employers must send the completed Form 8850 to the DLA no later than the 28th day after the individual begins work for the employer. The IRS has now extended the Form 8850 deadline to June 29, 2016.

June 29 is also the extended the Form 8850 deadline for employers that have hired (or plan to hire) long-term unemployment recipients between January 1, 2016, and May 31, 2016. These target group individuals must start work on or after January 1, 2016, and on or before May 31, 2016. For long-term unemployment recipients hired on or after June 1, Form 8850 must be submitted by the 28th calendar day after the individual begins work.

An employer also must submit a Department of Labor Employment and Training Administration (ETA) Form 9061 ("Individual Characteristics Form") or 9062 ("Conditional Certification") to the DLA.

## **Form 8850 modified**

In light of the guidance in Notice 2016-22, the federal government is modifying Form 8850 and ETA Forms 9061 and 9062. The modified forms and instructions will indicate the information that must be provided in order for the employer to receive certification from the DLA that the individual is a qualified long-term unemployment recipient.

The IRS anticipates that the modified forms will include a requirement that the individual signing the form attest that he or she meets the requirements to be a qualified long-term unemployment recipient and a requirement that the individual attest to the period(s) during which the individual was unemployed and received unemployment compensation.

## **Take action soon**

The WOTC is a valuable incentive that should be considered when hiring new employees. However, the compliance certification process may produce confusion or unnecessary delays. We can help you determine whether an employee qualifies under a specific target group, calculate the applicable credit and answer other questions you might have.

## **For more information**

If you have questions about this alert, please contact [Mark Baran](#), Principal in the Tax Practice, by phone at (212) 503-8991 or by email at [mbaran@markspaneth.com](mailto:mbaran@markspaneth.com) or any of our [Marks Paneth professionals](#).

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