

On December 18, 2015, President Obama signed into law the Protecting Americans from Tax Hikes Act of 2015 (the PATH Act) that extends the Work Opportunity Tax Credit (WOTC) retroactively for hires from December 31, 2014 to December 31, 2019. This document provides information and interim instructions to help the State Workforce Agencies (SWAs) implement the PATH Act's legislative provisions. The Employment and Training Administration (ETA) and the Internal Revenue Service (IRS) will be issuing formal guidance soon and updating WOTC forms as needed.

Summary of Legislative Provisions

The PATH Act amends Section 51(c)(4) of the Internal Revenue Code of 1986. In summary, Title I—"Extenders," Subtitle B—"Extensions Through 2019," Section 142, "Extension and Modification of Work Opportunity Tax Credit," of this Act:

- Retroactively reauthorizes the WOTC program with all its **current target groups**, without changes or new provisions, for a 5-year period, after December 31, 2014 to December 31, 2019;
- Introduces a new target group, a *Qualified Long-term Unemployment Recipient*, which is defined as any individual who is certified by the designated local agency as being in a period of unemployment which –
 - ✓ is not less than 27 consecutive weeks, and
 - ✓ includes a period in which the individual was receiving unemployment compensation under State or Federal law.

Qualified Wages For New Qualified Long-term Unemployment Recipient Target Group. The 1996 legislative provisions that apply to most adult non-veteran target groups for "qualified wages" and amount of the tax credit employers can claim for new hires certified under those target groups also apply to the new target group employees hired after December 31, 2015. Qualified wages for certified new hires under the new *Qualified Long-term Unemployment Recipient* target group are also capped at \$6,000 dollars, during the first year of employment, for a maximum tax credit of up to \$2,400 depending on the number of hours the new hire works (i.e., how they meet the provisions of *the Minimum Employment or Retention Period*).

Tax Credit Amounts and The *Minimum Employment or Retention Period* For New Qualified Long-term Unemployment Recipient Target Group.

- For WOTC certified new hires working at least 120 hours, employers can claim 25% of the first year wages paid up to \$6,000 for a maximum income tax credit of up to \$1,500, or
- For WOTC certified new hires working 400 hours or more, employers can claim 40% of the first year wages up to \$6,000 for a maximum income tax credit of up to \$2,400.
- The PATH Act retroactive extension applies to individuals who begin work for an employer [and are certified under any of the existing current target groups] after December 31, 2014 and
- The PATH Act provisions that cover the new target group apply to individuals who begin to work for an employer after December 31, 2015, i.e., on or after January 1, 2016.

Information and Interim Instructions for the State Workforce Agencies on the Recent WOTC Reauthorization by the *Protecting Americans From Tax Hikes Act of 2015 (Pub. L. 114-113) 1.26.16*

- The legislative authority for the Empowerment Zones (EZs) expired on December 31, 2014. The PATH Act reauthorized the EZs for a 2-year period through December 31, 2016 (see Section 171 of the PATH Act, attached).

Interim Instructions

ETA is working in coordination with the IRS to issue a Training and Employment Guidance Letter (TEGL) regarding the PATH Act extension and changes for WOTC and the new target group. In the interim, the following instructions are provided to the SWAs:

1. **Processing WOTC Applications Filed During The 2015 Authorization Lapse.** SWAs are being instructed to take the following actions upon receipt of this document:
 - Issue all final determinations processed during the 2015 authorization lapse that were filed pending a retroactive extension;
 - Process all timely filed certification requests for individuals who began to work for an employer on or after January 1, 2015, and issue employers or their representatives the respective certifications or denials.
2. **Processing Applications For All WOTC Target Groups, Except the New Target Group.** SWAs should continue the uninterrupted processing of employers' timely filed certification requests and issuance of determinations (certifications or denials) for individuals that began to work for an employer after December 31, 2014 for all currently reauthorized target groups.
3. **Processing Certification Requests For the New Target Group.** ETA and IRS are working together to modify the WOTC Forms, ETA Form 9061 and IRS Form 8850, to include the new *Long-term Unemployment Recipient* target group. To help employers and their representatives screen eligible new hires for the New Target Group, ETA plans to modify ETA Form 9061 for statutory requirements for the New Target Group. The IRS Form 8850 is also expected to be revised for the New Target Group. In the interim, employers and their representatives are encouraged to postpone certification requests for the New Target Group until the revised forms are available. States may accept applications for the New Target Group using the current forms ETA forms 9061 or 9062, yet must postpone processing those certification requests until ETA issues additional guidance. **Note: ETA will notify states when employers are to start using the new forms. Until then, SWAs may accept current forms 9061 or 9062 (expiration date: August 31, 2018) that indicate "Long-term Unemployment Recipient" in the top margin, right corner underneath the expiration date.**

REMINDER: In processing WOTC applications, SWAs should be aware that IRS has in prior instances of retroactive extension of WOTC provided transition relief for the 28-day certification requirement. ETA understands that IRS is considering similar guidance on the amendments (including retroactive extension) regarding WOTC under the PATH Act. ETA will provide this information to the SWAs as soon as it becomes available. IRS generally provides this information and guidance available at its website: www.irs.gov. All related questions should be sent to the Ask.WOTC@dol.gov e-mail account.