



David A. Paterson, Governor

M. Patricia Smith, Commissioner

NEW YORK STATE WORKFORCE DEVELOPMENT SYSTEM TECHNICAL ADVISORY

Workforce Development System Technical Advisory #09-22

TO: Workforce Development Community

DATE: September 23, 2009

SUBJECT: New Work Opportunity Tax Credit (WOTC) Eligibility Categories

Purpose:

To provide clarification regarding new targeted worker eligibility categories under the Work Opportunity Tax Credit (WOTC) program, as defined in the American Recovery and Reinvestment Act of 2009, and to transmit new forms IRS 8850 and ETA 9061.

Background:

The WOTC program previously established nine (9) targeted worker categories which entitle employers to wage tax credits for newly hired individuals who work on a full or part-time basis.

On February 17, 2009, the President signed into law the American Recovery and Reinvestment Act of 2009. This Act amended Section 51 of the Internal Revenue Code by adding two (2) additional target groups to the WOTC program. The act provides that unemployed veterans and disconnected youth who begin work for an employer during 2009 and 2010 may be treated as members of a targeted group for purposes of the WOTC program.

Typically, a worker cannot be treated as a member of a targeted group that qualifies for the WOTC unless the employer submits the required form (IRS 8850) to the New York State Department of Labor (NYSDOL) WOTC Office within 28 days of the date of hire. However, Section 51 (D) (13) provides transitional relief.

Specifically, under this notice, any employer who hires an unemployed veteran or disconnected youth (as defined) after December 31, 2008 and before September 17, 2009 will be considered to satisfy the deadline if the employer submits the pre-screening notice to the designated local agency to request certification not later than October 17, 2009. For individuals hired after September 17, 2009 the pre-screening notice must be submitted within the normal 28 day window.

Policy/Procedures:

Definitions:

Unemployed Veteran: Any unemployed veteran (defined as an individual who served on active duty, other than active duty for training, in the Armed Forces for a period of more than 180 days or was discharged or released from active duty for a service connected disability) 1) having been discharged or released from active duty in the Armed Forces at any time during the five year period ending on the hiring date and 2) being in receipt of unemployment compensation under state or federal law for not less than four weeks during the one year period ending on the hiring date.

Disconnected Youth: Any individual who 1) has attained age 16 but not age 25 on the hiring date; 2) is not regularly attending any secondary, technical or post-secondary school during the 6 month period preceding the hiring date; 3) is not regularly employed during such 6 month period; and 4) is not readily employable by reason of lacking a sufficient number of basic skills.

Documentary evidence requirements:

Unemployed Veterans: Individuals must meet all three criteria in order to be certified as an unemployed veteran:

- 1 - To determine that the individual satisfies the definition of veteran:
 - DD 214, or
 - FL 21-802 issued only by DVA (certifies a Veteran with a service-connected Disability)
- 2 - To determine that the veteran was discharged or released from active duty in the Armed Forces at any time during the five-year period ending on the hiring date:
 - DD-214
- 3 - To determine if a veteran has been in receipt of unemployment compensation:
 - Unemployment Insurance claims records

Disconnected Youth: The individual must meet all four criteria in order to be certified as a disconnected youth:

- 1 - To determine that the youth is at least age 16 but under 25 on the hiring date:
 - Birth certificate
 - Driver's license
 - Work Permit
 - Copy of Hospital Record of Birth
 - School I.D. Card/School Records
 - Federal/State/Local Government ID
- 2 - To determine whether the youth has not been regularly attending any secondary, technical or post-secondary school during the 6 month period before hiring date:
 - Signed letter from parent/guardian (if minor) attesting to the information above, and/or
 - Self attestation stating that the applicant is not attending nor has attended any secondary, technical or post secondary school for more than 10 hours per week during the 6 month period before the hiring date.
- 3 - To determine whether the youth has not been regularly employed during the 6

month period before hiring date:

- Unemployment Insurance Wage Records
- 4 - To determine whether the youth was not readily employable due to lack of basic skills:
- Self-Attestation stating that the individual does not have a high school diploma or GED, or
 - Self-Attestation stating that the individual has a certificate of graduation from a secondary school or GED that was awarded no less than 6 months preceding the hiring date and has not held a job (other than occasionally) or been admitted to a technical school or post-secondary school since receiving the certificate.

Action:

The new eligibility categories apply only to employees hired during 2009 and 2010 unless subsequent reauthorization is effectuated.

Employers should be notified that new forms IRS 8850 and ETA 9061 (see attachments) are available. Previous revisions of these forms should no longer be used as of September 15, 2009.

Inquiries:

Please direct all inquiries regarding this Technical Advisory to Bonnie Lance at Bonnie.Lance@labor.state.ny.us

References:

The American Recovery and Reinvestment Act of 2009 (Public Law 111-5)
Training and Employment Guidance Letter No. 11-08 Change 1
Small Business Opportunity Tax Act of 2007 (Public Law 120-28)
Tax Relief Health Care Act of 2006 (Public Law 109-432)
Training and Employment Guidance Letter No. 3-09

Attachments:

- A. [IRS Form 8850](#)
- B. [ETA Form 9061](#)