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**OFFICE OF TEMPORARY AND DISABILITY**  
**ASSISTANCE**  
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**Andrew M. Cuomo**  
*Governor*

**Informational Letter**

**Section 1**

<b>Transmittal:</b>	11-INF-02
<b>To:</b>	Local District Commissioners
<b>Issuing Division/Office:</b>	Center for Employment and Economic Supports
<b>Date:</b>	January 14, 2011
<b>Subject:</b>	Conditional Certifications for the Work Opportunity Tax Credit (WOTC)
<b>Suggested Distribution:</b>	Employment Coordinators
<b>Contact Person(s):</b>	Employment and Advancement Services Bureau at (518) 486-6106 or Employment Services Advisor
<b>Attachments:</b>	<a href="#">Attachment A- Resource Information for WOTC</a> <a href="#">Attachment B- New Cognos Users Access Request Form</a> <a href="#">Attachment C-Letter of Agreement</a> <a href="#">Attachment D-WRTS Cognos Security Contact List</a>
<b>Attachment Available On – Line:</b>	<input checked="" type="checkbox"/>

**Filing References**

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
			26 USC 51		

## Section 2

### I. Purpose

The purpose of this informational letter is to inform social services districts (districts) of the opportunity to conditionally certify certain individuals as eligible for the Work Opportunity Tax Credit (WOTC). Conditional certification is a preliminary determination that an individual who an employer hires may make the employer eligible for a tax credit. Designated district staff will have the authority to pre-certify individuals as WOTC eligible, subsequent to entering into an agreement with the New York State Department of Labor (NYSDOL) (Attachment C). Once the agreement has been finalized, districts will be provided access to two Cognos reports developed by the Office of Temporary and Disability Assistance (OTDA) that identify individuals who are WOTC eligible based on receipt of Public Assistance or Food Stamp/Supplemental Nutrition Assistance Program (SNAP) benefits.

The ability to provide WOTC pre-certifications can be an effective tool to support district job placement and job retention efforts. This informational letter provides background on WOTC, instructs districts on how to obtain approval from NYSDOL to pre-certify individuals for tax credits and informs districts of Cognos tools available to facilitate WOTC eligibility determinations for certain categories.

### II. Background

The WOTC is a federal tax credit designed to encourage employers to hire targeted groups of job seekers by reducing employers' federal income tax liability with each eligible hire. The WOTC, authorized by the Small Business Job Protection Act of 1996 (P.L. 104-188), was extended on May 25, 2007. Definitions of the targeted groups were amended within the Tax Relief and Health Care Act (P.L. 109-432) and the American Recovery and Reinvestment Act of 2009. Eligible individuals include certain recipients of Public Assistance or Food Stamp/SNAP benefits. Employers who hire WOTC targeted groups, and who meet the tax credit requirements, are eligible for a tax credit, which reduces the employer's business taxes.

Employers who hire a WOTC eligible individual may be entitled to a tax credit. Examples of the maximum credit values are:

- \$1,200 for each new qualified summer youth hire;
- \$2,400 generally for each new adult hire;
- \$4,800 for each new qualified disabled veteran hire receiving Food Stamps (SNAP); and,
- \$9,000 over a two year period for each new qualified long term family assistance recipient hire.

There is a minimum employment retention period that must be satisfied before an employer is eligible for WOTC.

The WOTC amount an employer may claim depends on the hours the employee works. All new adult employees must work a minimum of 120 or 400 hours to be eligible. The credit is 25% of qualified first year wages (up to \$6,000) for those individuals employed at least 120 hours, but fewer than 400 hours and 40% for those employed 400 hours or more. Individuals hired as Summer Youth employees must work at least 90 days, between May 1 and September 15, for the employer to be eligible to claim the tax credit.

For more information contact NYSDOL at 1-800-HIRE-992 or visit the NYSDOL website at <http://www.labor.ny.gov/businessservices/edsu/edsu%20wotc.shtm>.

### III Program Implications

WOTC is intended to provide an incentive for employers to hire from certain target groups of individuals. Employer tax credits may be as high as \$9,000 over a two year period (Long-term recipients of Temporary Assistance for Needy Families (TANF) funded assistance).

Districts can enhance their job placement efforts by informing employers when job seekers are pre-certified as WOTC eligible. Given that the amount of the WOTC credit is based on wages earned and duration of employment, WOTC, also serves as an incentive to support job retention.

To obtain the authority to conditionally certify individuals as eligible for WOTC, districts must enter into an agreement with NYSDOL (Attachment C). Two new Cognos reports were developed to significantly simplify each district's ability to identify individuals who qualify under certain target groups.

**Which new hires qualify employers for the WOTC?**

- The consolidated WOTC applies only to new employees who began work for an employer **after** December 31, 2006, **and before** September 1, 2011. Program continuation beyond August 31, 2011, is dependent on authorizing federal legislation.
- To be eligible, the new employee must belong to one of the following 11 WOTC target groups:
  1. ***Other TANF Recipient*** A member of a family that is receiving or recently received TANF benefits for any nine months during the 18-month period ending on the hiring date.
  2. ***Qualified Veteran*** A veteran who is a member of a family that received assistance under SNAP (food stamps) for at least a three-month period during the 15-month period ending on the hiring date; **or** a disabled veteran entitled to compensation for a service-connected disability, who is hired not more than one year after being discharged or released from active duty; **or** a disabled veteran entitled to compensation for a service-connected disability who was unemployed for a period or periods totaling at least six months (whether or not consecutive) in the one-year period ending on the hiring date.
  3. ***Qualified Ex-Felon*** An individual who has been convicted of a felony and has a hiring date that is not more than one year after the last date on which he/she was convicted or released from prison.
  4. ***Designated Community Resident*** An individual who is at least age 18 but not yet 40 on the hiring date and whose principal residence is within a federally designated community Empowerment Zone (EZ), Renewal Community (RC), or Rural Renewal County (RRC). In New York, Montgomery and Clinton counties have been designated as "Rural Renewal Communities."
  5. ***Vocational Rehabilitation Referral*** An individual who completed or is completing rehabilitative services from a State certified agency, an Employment Network, or the U.S. Department of Veterans Affairs.
  6. ***Summer Youth Employee*** An individual who works for the employer between May 1st and September 15th, is at least age 16, but not yet 18 on the hiring date (or if later, on May 1st), has never worked for the employer before, and lives in an Empowerment Zone or Renewal Community.
  7. ***18-39 Year-old SNAP/Food Stamp Benefits Recipient*** A member of a family who is at least age 18, but not yet 40 on the hiring date, **and** who received SNAP (food stamps) benefits for **either** the six month period ending on the hiring date, **or** is no longer eligible for such assistance under Able-Bodied Adults Without Dependents (ABAWD) regulations (Section 6(o) of the Food Stamp Act of 1977), but received SNAP benefits for at least three of the five month period ending on the hiring date.

8. **SSI Recipient** A recipient of Supplemental Security Income (SSI) benefits for any month ending during the past 60 day period ending on the hire date.
9. **Long term TANF Recipient** A member of a family that:
  - Received TANF payments for at least 18 consecutive months ending on the hiring date, *or*
  - Received TANF payments for any 18 months (whether or not consecutive) beginning after August 5, 1997, and the earliest 18-month period beginning after August 5, 1997, ended during the past 2 years prior to the hiring date, *or*
  - Stopped being eligible for TANF payments during the past two years on the basis of federal or state law limiting the maximum time for which those payments could be made and the individual is hired not more than two years after such eligibility ended.
10. **Unemployed Veteran** A veteran hired after 2008 and before January 1, 2011, who:
  - Has been discharged or released from active duty in the U.S. Armed Forces at any time during the five year period ending on the hiring date, *and*
  - Received unemployment compensation under state or federal law for at least four weeks during the one year period ending on the hiring date.

To be considered a veteran, the applicant must have served on active duty (not including training) in the U.S. Armed Forces for more than 180 days, or have been discharged or released from active duty for a service-connected disability.
11. **Disconnected Youth** An individual who is certified as: 1) having attained age 16, but not age 25 on the hiring date 2) not regularly attending any secondary, technical, or post-secondary school during the six month period preceding the hiring date 3) not regularly employed during such six month period, *and* 4) not readily employable by reason of lacking a sufficient number of basic skills.

## Eligibility Reports

OTDA has created a WOTC Eligibility Report to enable districts to quickly and easily determine eligibility for the following three WOTC target groups:

- Other TANF Recipient (see # 1 above),
- Qualified Food Stamp Recipient (see # 7 above), and
- Long Term TANF Recipient (see # 9 above).

Eligibility for these three targeted groups is based on Welfare Management System (WMS) data identifying the length of time in receipt of Food Stamp/SNAP benefits and Public Assistance. Veteran status is, also indicated on the WOTC Eligibility reports based on information from WMS. The veteran indicator should not be relied on as documentation, but instead as an indicator of possible eligibility.

The report is available in two versions, the individual look up tool ([Work Opportunity Tax Credit \(WOTC\) Eligibility Report](#)) and the group look up tool ([Work Opportunity Tax Credit \(WOTC\) Group Eligibility Report](#)).

The WOTC Eligibility Report is based on an individual's Social Security Number and depicts eligibility as "yes" or "no" for each of the three categories based on TANF or Food Stamp/SNAP histories. This report includes the individual's name, case number, recipient history, and eligibility. This report satisfies the federal documentation requirements for these three categories (1, 7, and 9). When the conditional certification is issued, **the eligibility report must be retained for a minimum of five years for each individual.**

For the other Targeted Groups (2, 3, 4, 5, 6, 8, 10 and 11), see Attachment A, WOTC Proof Needed to Confirm Eligibility, which lists the documentation required for each group to conditionally certify individuals as WOTC eligible.

The WOTC Group Eligibility Report enables users to assess eligibility for WOTC for up to 1,000 individuals at a time. However, the group eligibility report cannot be used to issue conditional certifications as it does not contain sufficient supporting documentation as required by NYSDOL for issuing the conditional certification for these target groups. The WOTC Eligibility Report contains all information necessary to verify eligibility for these three target groups, and should be used for that purpose.

The group eligibility report has a column for each of the three targeted groups. Individuals who are eligible for WOTC for the hiring date selected will appear in the eligible portion of the report and the column associated with each of the three categories will be populated by a “1.” Individuals appearing on the report as “possibly eligible research further” are individuals who may have a conflict in the data within the Welfare Reform Tracking System (WRTS). An example of that may be the individual is known to WMS by different names or different Client Identification Numbers (CIN).

The WOTC Group Eligibility Report, also includes an indicator based on the WMS data element for veteran status, which indicates that the individual may be a WOTC eligible veteran. Districts should obtain additional documentation (see Attachment A) to confirm veteran status.

The group lookup tool is best used in situations for which the district is attempting to certify a large number of individuals at one time (e.g. Job Fairs). Using the group tool eliminates individuals who are not eligible. Please note that when the Group Eligibility Tool indicates that an individual is eligible, the staff completing the ETA 9062 and IRS 8850 eligibility applications must also use the individual look up tool for each individual to ensure definitive WOTC eligibility.

### **Access to Eligibility Reports**

To receive access to the WOTC Eligibility tools, district staff must have a valid HSEN account and request Cognos access to WRTS Non-Services Data and access to the WOTC Eligibility Reports from their district WRTS Cognos Security Contact List (Attachment D), who will complete the Cognos Access Form (Attachment B) and have the district WRTS Cognos security contact send it to the OTDA Cognos Reporting mailbox [otda.sm.cognos.reporting](mailto:otda.sm.cognos.reporting) or [Cognos.reporting@dfa.state.ny.us](mailto:Cognos.reporting@dfa.state.ny.us).

### **Required WOTC Forms**

Employers must submit certain forms as part of the WOTC application process. The forms and the timelines associated for completion are specifically outlined in the federal statute that created the WOTC. The forms, provided below, are current at the time this information is being released. To ensure that you use the most current version please access the appropriate website noted below.

#### **1. IRS Form 8850**

- The federal IRS 8850 form is available through the Internal Revenue Service website at <http://www.irs.gov/pub/irs-pdf/f8850.pdf>. This is the official certification request form for the federal employer based tax credits including WOTC.

#### **2. 9062 or ETA Form 9061**

- ETA Form 9061 is available through the USDOL website at [http://www.doleta.gov/business/Incentives/opptax/PDF/WOTC\\_ETA\\_Form\\_9061.pdf](http://www.doleta.gov/business/Incentives/opptax/PDF/WOTC_ETA_Form_9061.pdf)
- Conditional certification form (ETA 9062) is issued by a participating agency as authorized by NYSDOL (e.g. Local DSS, EAS Jobs Program or VESID staff).

Sample 8850 and 9062 forms, with instructions that describe how to complete these forms, are attached to this INF (Attachment A).

## General WOTC Procedures

An employer must request and receive certification from the NYSDOL's Economic Development Services Unit that the **new hire** is a member of one of the 11 WOTC target groups, before the employer can claim the WOTC on its federal income tax return.

There are only three simple steps for the employer to take before claiming the Work Opportunity Tax Credit on its Federal tax forms. To request certification, the employer must:

1. Complete IRS Form 8850, *Pre-Screening Notice and Certification Request for the Work Opportunity Tax Credit*, by the date of the job offer, **and**
2. Complete one of the following U.S. Department of Labor forms:
  - ETA Form 9061, *Individual Characteristics Form*, if the new hire has not been given an ETA Form 9062; **or**
  - ETA Form 9062, *Conditional Certification Form*, if provided to the job seeker by a Participating Agency, an State Workforce Agency (SWA), or a Vocational Rehabilitation Agency; **and**
3. Mail the signed and dated IRS and ETA forms to the NYSDOL Economic Development Services Unit not later than 28 calendar days after the new hire begins work. These forms must be postmarked within 28 days of the employees' start date.

To maximize the potential federal and state tax credits available to an employer who hires an eligible WOTC individual, it is advised that the district coordinate the issuing of WOTC conditional certifications with any other agency (e.g. OTDA Jobs Program, NYSDOL or VESID staff) that is authorized to issue conditional certifications in the county.

In many districts during the last year, the OTDA Jobs Program Specialists and Regional Coordinators have been involved in the WOTC pre-certification process for the clients they serve. As such, they may be able to assist districts with WOTC pre-certification efforts. If a district would like its local Jobs staff to assist them, please contact the Jobs Program Regional Coordinator for your district.

## Letter of Agreement with NYSDOL

The OTDA and the NYSDOL have developed a template Letter of Agreement (Attachment C) to allow district staff to conditionally certify individuals as eligible for the WOTC.

The template agreement states the goals of the WOTC program, and the rights and responsibilities of the parties to the agreement, any audit or corrective measures that may be necessary, and a confidentiality clause.

The local Department of Social Services Commissioner, or designee, should sign the agreement and mail the signed copy to:

Bonnie Lance  
NYS Department of Labor  
Building 12 Room 200  
Harriman State Office Complex  
Albany NY 12240

Once the Letter of Agreement has been executed between NYSDOL and the local Department of Social Services, the district will be assigned an individual agency code and local version of the ETA 9062,

which will be prefilled with district specific information. Questions related to the Letter of Agreement process should be directed to Bonnie Lance at 518-457-6823.

**Marketing Tools:**

OTDA and NYSDOL have coordinated to create marketing materials designed to promote the precertification of clients and maximization of WOTC. The following forms are located in the document resource Information for WOTC (Attachment A) and may be used by district staff to market the WOTC and other federal tax credits to employers and clients as deemed appropriate:

- Earn Employment Tax Credits (NYSDOL P437)
- Tax Incentives Fact Sheet (NYSDOL 438)
- New York Employment-Based Tax Incentives (NYSDOL 439)
- Employers: 11 Ways to Earn Income Tax Credits for Your Company
- Employer Handout (Orange)
- Client Handout (Blue)

**Training:**

OTDA staff from the Employment and Advancement Services Bureau is available to provide training to district staff on the tax credit procedures and use of the WOTC eligibility reports.

**Issued By**

**Name:** Russell Sykes

**Title:** Deputy Commissioner

**Division/Office:** Center for Employment and Economic Supports