



WOTC Information for State Workforce Agencies

FREQUENTLY ASKED QUESTIONS (FAQs)

I. Application Filing Methods and Deadlines

Are state Designated Local Agencies (DLAs – also known as State Workforce Agencies or SWAs) permitted to accept photocopies or other digitally-reproduced versions of IRS Form 8850 from employers?

Yes, in Notice 2012-13, the IRS clarified its position concerning the acceptability of electronic signatures and faxed copies of the Form 8850. The guidance provided that employers are able to transmit the Form 8850 by facsimile (fax), subject to the ability of the SWA to accept submissions in that format. The guidance continues to permit submission through other processes, such as regular mail, since the IRS recognizes that although facsimile filing of Form 8850 is permitted, not all states are equipped to accept a faxed copy of Form 8850.

The notice also clarifies that use of electronic signatures is permitted. Given that Notice 2012-13 permits, subject to the ability of the SWA, both submission by facsimile and the use of electronic signatures and does not require that original Forms 8850 be submitted, states are also permitted to accept other forms of digitized reproduction, such as photocopies as well as scanned and e-mailed PDF versions of Form 8850.

The reproduced version need not contain a header or footer reflecting the means and source of transmission to be acceptable to the SWA. A true duplicate of the original is sufficient to meet IRS requirements. Employers must ensure, however, that the original Form 8850 containing electronic or ink signatures is retained in accordance with IRS requirements for records retention.

Does the IRS postpone the deadline for filing the Form 8850 with Designated Local Agencies (DLAs – also known as SWAs) as a result of declared emergencies and disaster areas?

Yes, the deadline for filing Form 8850 may be postponed for affected taxpayers located in covered disaster areas. Section 7508A of the Internal Revenue Code provides the Secretary of the Treasury with authority to postpone the time for performing certain acts under the internal revenue laws for up to 1 year for a taxpayer affected by a federally declared disaster. The 28-day requirement for submitting Form 8850 is identified in Section 15 of Rev. Proc. 2007-56 as a time sensitive act that is postponed in response to a federally declared disaster.

A “covered disaster area” means an area of a federally declared disaster “within the meaning of IRC 1033(h)(3)” to which the Service has determined certain deadlines for certain acts may be postponed. Also see Treas. Reg. § 301.7508A-1(d)(2).

For purposes of the 28-day filing requirement for Form 8850, an employer who hires a member of a targeted group will only get extended time to file Form 8850, provided the filing deadline falls within the postponement period specified in an IRS News Release for the state for which the employer is considered an affected taxpayer’s principal place of business is located.

Is there a restriction as to what combination of e-signatures and wet ink signatures employers and employees are allowed for e-filing, fax filing, or paper filing of the Form 8850? Are all combinations allowed?

Section IV of IRS Notice 2012-13 (page 8) permits the following combinations of e-signatures and ink signatures:

- Both employer and employee sign electronically.
- Employee signs electronically and employer signs in ink.

Note: An ink signature by the employee and an e-signature by the employer are not permitted.

II. Acceptable Sources of Documentation

Can SWAs use the e-Verify website to verify the residence and/or age of WOTC target group new hires? The e-Verify website is available at: <http://www.uscis.gov/e-verify>.

Yes, SWAs can accept this documentation. “E-Verify” is a valid and reliable source of identifying information from the U.S. Department of Homeland Security (DHS) that can validate age and/or residence for WOTC target group eligibility. E-Verify allows businesses to confirm the legal right of their employees to work in the United States. It is an Internet-based system that compares information from the following three sources: 1) an employee’s Form I-9, “Employment Eligibility Verification,” 2) DHS data, and 3) Social Security Administration (SSA) records to validate identity and employment eligibility.

Although the Form I-9 is not permitted for the purposes of WOTC documentation, e-Verify does not rely solely on I-9 information alone, but compares that information with government records from DHS and SSA.

Is the National Archives approved as a new online source of documentation for the veteran target group?

Yes, the National Archives at <http://www.archives.gov/veterans> can be used to verify Veteran status. This federal site allows access to separation letters or discharge papers (DD Form 214) that confirm a veteran's military service.

The records available provide all of the information regarding active duty service dates, which can be useful for states in verifying that part of the veteran target group requirements. The National Archives is a highly reliable database with records going back to the very early civil war years, including information up to the present.

Only the individual or a family member of a deceased veteran can obtain a veteran's military record on the National Archives site. While only the veteran can access this data, states may also request a signed release of information from the new hire that allows them access to the site's records on behalf of that veteran. This may be attached to a letter requesting the records sent to the National Archives. Instructions for requesting records can be located online at <http://www.archives.gov/veterans/military-service-records/>.

In lieu of a letter, a Standard Form (SF) 180, Request Pertaining to Military Records, can be used for requesting the records. Instructions are provided with the form, which can be downloaded online at <http://www.archives.gov/veterans/military-service-records/standard-form-180.html>. When the SF 180 is completed, the purpose noted in the "Other" section should be "Work Opportunity Tax Credit (WOTC) Eligibility Determination." This form request must be sent by regular mail or faxed, when requesting on behalf of veterans or next-of-kin. A letter will then be returned from the National Archives stating the veteran's active duty service dates.

The SF 180 is also available on these websites:

<http://www.archives.gov/research/order/standard-form-180.pdf>

<http://federalgovernmentjobs.us/forms/standard-form-180.pdf>

Is the Department of Defense's Manpower Data Center Certification approved as a source to document veteran status?

Yes, approval has been given to use the Servicemembers Civil Relief Act (SCRA) website at https://dmdc.osd.mil/appj/scra/single_record.xhtml as another source for determining veteran eligibility. The SCRA Certificate, also called the "Status Report Pursuant to Servicemembers Civil Relief Act," is a document used as evidence of an individual's active duty status in the U.S. Military, Reserves, or National Guard.

The SCRA website allows customers to search the Department of Defense (DoD) records housed in their Manpower Data Center. Users may submit a single record request, and with a match on the name and year of birth queried, it will provide a record called a “Certificate,” which lists both active duty and reserve service periods for the veteran.

The Defense Manpower Data Center (DMDC) has records going back to September 1985. If you are searching for records for service periods prior to that date, you may instead submit a request for records to the National Archives. The Manpower Data Center certificate on the SCRA site will provide you with the active dates of service, so long as the veteran served at least 30 days or longer. Thus, if the record locator comes back as no record, the National Archives website should be used for shorter periods of active duty as well. The federal government’s National Archives website is at <http://www.archives.gov/veterans/>.

States should maintain the cover sheet from the SCRA site’s query feature along with the DoD Manpower Data Center certificate (so, in effect, two sheets of paper). This provides the exact personal identifying information for the veteran whose service periods are described in the certificate. The cover sheet from the Data Center satisfies documentation requirements for having the personally identifying information (PII) on file which corresponds to the active duty periods listed in the certificate.

Also, to verify a veteran’s training periods that cannot be counted as qualifying service time, please refer to the DoD Manpower Data Center verification form’s box entitled “Service Component.” This section of the form will indicate the branch(es) of service. If that box states branches of service, such as Army Reserve or National Guard, then those dates may demonstrate “training” dates rather than active duty.

For general website assistance and/or questions, you may contact DMDC by mail at: DMDC, Attn: SCRA/Active Duty Status, 400 Gigling Road, Seaside, CA 93955-6771.

Can State Workforce Agencies use the Federal Bureau of Prisons online locator as a verification source for the ex-felon target group?

Yes, the inmate locator system on the U.S. Department of Justice, Federal Bureau of Prison’s (BOP) website is a valid government source of information. The BOP inmate locator — <http://www.bop.gov/inmateloc/> — provides basic information, including name, register #, age, race, sex, and release date, for individuals who currently are or have been inmates in federal prisons. As outlined below, State Workforce Agencies (SWAs) should accept BOP documentation provided by employers for certification requests and can use the BOP locator to verify and certify Work Opportunity Tax Credit (WOTC) applications for the ex-felon target group. [The BOP locator is not, however, the only form of acceptable documentation for the WOTC ex-felon target group, and SWAs may accept or use other appropriate documentation for verification].

ETA Form 9061 includes an item (Box 17) to identify that the employee has been convicted of a felony, and to indicate whether this was a federal or a state conviction. When SWAs receive a WOTC application for which a federal felony conviction is identified on ETA Form 9061, they should proceed to utilize the BOP locator. To help facilitate the processing of WOTC applications by SWAs, employers should include the BOP Register Number for the individual hired on ETA Form 9061 or on attached documentation. SWAs can then enter this number into the BOP locator to verify that the individual was incarcerated in a federal prison and obtain the release date.

The WOTC ex-felon target group requires that the individual has a hiring date that is not more than 1 year after the conviction or release from prison. If the release date listed on the BOP locator for the individual is within 1 year of the hiring date, this requirement has been met. For an individual that resided in a halfway house as part of his/her federal prison sentence, the release date on the BOP locator would represent the date that the individual completed the halfway house term and left the halfway house. As residence in a halfway house is part of an individual's sentence, the requirement that the hiring date be within 1 year after the release from prison is still met.

The WOTC ex-felon target group is also defined as an individual who has been convicted of a felony. While the BOP locator does not provide information on the type of crime committed, the number of individuals that have not been convicted of a felony and are serving a sentence in a federal prison is very minimal. If a federal felony conviction is identified on ETA Form 9061 by the employer or consultant, and the SWA is able to locate the individual on the BOP locator, then for the purpose of WOTC, the individual is considered to have met this definition. This determination is based on the insignificance of the number of non-felons in federal prisons, and additionally that an employer obtaining independent documentation of the type of crime committed is very difficult and not reasonably feasible.

III. Eligible New Hires and Target Group Criteria

Who old are the Empowerment Zones and Rural Renewal Counties? Have any of the areas changed over time?

The Empowerment Zones (including the DC Enterprise Zone) and all Renewal Communities were originally designated by Congress in tax reform, and their geographic boundaries have not changed since then. Although they initially expired at the end of 2009, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Public Law No. 111-312) extended the same Empowerment Zone (EZ) and DC Enterprise Zone designations to December 31, 2011. Renewal Communities, such as the RRCs, were not extended beyond 2009.

Following the end of the EZ designation extension on December 31, 2011, the American Taxpayer Relief Act (ATRA) of 2012, signed into law by President Obama on January 2, 2013, provided for an extension of the same Empowerment Zones (both

urban and rural) designations until December 31, 2013. The ATRA of 2012 did not extend the designation of the DC Enterprise Zone nor the Rural Renewal Counties. After this extension, the same 30 Round I, II, and III Empowerment Zones expired on December 31, 2013. Congress recently passed a tax extension bill, which covered the previously designated Empowerment Zones and renewed them through the end of 2014.

How do states continue to determine eligibility for designated community residents living in Rural Renewal Counties through the end of 2014? Is there a chance that renewal communities will be extended?

The U.S. Department of Agriculture's (USDAs) Renewal Community program ended on December 31, 2009, and has not been renewed. The Rural Renewal Counties (RRCs) were designated based on rural areas that lost population size during the five-year periods from 1990 through 1994 and 1995 through 1999. So, the last RRC round was designated in 1999. The twelve RRC communities selected then received WOTC and other tax incentives over the ten-year designation period between 1999 and 2009.

Each RRC was made up of one or several contiguous rural counties. A list is available here: <https://www.hudexchange.info/rc-ec>. Addresses can be searched to see whether or not they fall within an RRC using the U.S. Department of Housing and Urban Development's (HUDs) online tool called the EZ/RC Address Locator at <http://egis.hud.gov/ezrclocator/>. This mapping tool can show the location of the counties, which has not changed, even though they are expired tax incentive designations.

Because WOTC legislation still uses these geographic areas as criteria for determining eligibility for members of the Designated Community Resident (DCR) target group, then states should continue to refer to the 1999 round of designated counties to certify new hires in the DCR target group. If Congress, in extending the WOTC program in the future, passes tax credit legislation that redefines this target group, then ETA will release new guidance to states.

IV. Notice of Revocation Procedures

When are notices of revocation (NORs) issued?

NORs are to be sent to employers after a "non-eligibility" finding identified during one of the required quarterly audits conducted by the state workforce agencies (SWAs). These internal audits ensure the integrity of the processing and certification systems used to carry out the Work Opportunity Tax Credit (WOTC) program.

NORs may also be issued at any time for prior certifications the state reconsiders or reassesses. For example, when new, additional or previously missing information is

obtained or received by the state, a redetermination is conducted. If warranted, the state may issue an NOR at any time to deny a prior target group that was later found to be not authorized, or was issued in error.

Or it may be issued to certify a new target group that affords the employer the possibility of a higher tax credit, thereby denying the former target group, since a new hire can only be certified in one target group. Thus, NORs may also be issued, when new information comes to light and the state reassesses the validity of a certification.

What all should states include in their notices of revocation? What information needs to be included on the notice and how much of that is shared with IRS?

In partnership with the Internal Revenue Service (IRS), ETA has devised a sample notice of revocation form. States, however, may use their own forms, and should ensure the notice is printed on their official state letterhead stationery, or fraud-proof certificate paper with state official markings. If states opt to use their own format, they should ensure that their notice of revocation form contains all of the required information in the ETA sample template, at a minimum.

The NOR data elements required to be included, per ETA agreement with IRS, are the following:

1. Employer's name and complete address,
2. The full seven-digit Federal Employer Identification Number (FEIN),
3. The name of the certified employee or new hire,
4. Only the last four digits of the employee's Social Security Number (SSN),
5. The employee's physical address,
6. The name of the target group certified, of which the employee is a member,
7. The date the certification was issued by the state,
8. The signature of the SWA's authorizing individual, and
9. Any participating agency address, if a conditional certification was used, and a copy of the SWA's certification should be provided to that agency.

States should NOT include any statements regarding the reason for the revocation. Simply stating the revoked certification was issued incorrectly is all that IRS requires.

How are states supposed to notify IRS about notices of revocation, or redeterminations to certify a target group other than the one originally certified?

Beginning on October 1, 2014, copies of notices of revocation (NORs) are no longer to be mailed to David F. Moser at IRS, 1122 Town and Country Commons, Chesterfield, MO 63017.

A copy of any notice of revocation (NOR) sent to an employer **must be faxed** manually or electronically to the Internal Revenue Service (IRS). State workforce agencies should fax NORs to the IRS' Small Business/Self-Employed Campus Compliance Services Office at **1-855-242-6540**.

What is the effect of a notice of revocation or invalidation of a prior certification?

For revocations invalidating a prior certified target group, which has the practical effect of a denial, the purpose of the NOR is to inform the affected employers that wages paid to the now “non-eligible” employees cannot continue to be treated as “qualified WOTC wages.” Providing the employer a notice of revocation advises the employer that he/she cannot claim the WOTC effective the date of receipt of the NOR. Faxing the NOR for the redetermination to IRS ensures that the IRS correctly allows employers to claim tax credits.