

# ***EOTS NewsFlash***

Exempt Organizations Tax Services

February 29, 2012

## *Tax credit against employer share of Social Security tax available to tax-exempt organizations that hire qualified veterans*

On November 21, 2011, the VOW to Hire Heroes Act of 2011 was enacted that made changes to the Work Opportunity Tax Credit (WOTC) by making the WOTC available to certain tax-exempt employers as a credit against the employer's share of Social Security tax. For employers described in IRC section 501(c) and exempt from taxation under IRC section 501(a), the WOTC applies to the hiring of "qualified veterans" and who begin work on or after November 22, 2011, and before January 1, 2013. The credit can be as high as \$6,240 per employee for tax-exempt organizations, but the credit will depend on a number of factors. This credit is processed separately from the employer's Form 941 and is also independent of any other tax filing (i.e., Form 990-T).

### *Who is a "qualified veteran"?*

Under the WOTC, an individual is a veteran if he or she satisfies the following requirements:

1. The individual served on active duty in the US Armed Forces for more than 180 days or has been discharged or released from active duty for a service-connected disability, and
2. The individual did not have a period of active duty of more than 90 days that ended during the 60-day period ending on the hiring date.

In addition, to be a "qualified veteran" eligible for the WOTC, the individual must be certified as:

- A member of a family receiving assistance under the Supplemental Nutrition Assistance Program (food stamps) for at least a 3-month period during the 12-month period ending on the hiring date.



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- Unemployed for a period or periods totaling at least 4 weeks but less than 6 months in the 1-year period ending on the hiring date.
  - Unemployed for a period or periods totaling at least 6 months in the 1-year period ending on the hiring date.
  - Entitled to compensation for a service-connected disability and hired not more than 1 year after being discharged or released from active duty in the US Armed Forces.
  - Entitled to compensation for a service-connected disability and unemployed for a period or periods totaling at least 6 months in the 1-year period ending on the hiring date.

An employer must obtain certification that an individual is a "qualified veteran" in order to claim the WOTC. The individual and employer must complete Form 8850, Pre-Screening Notice and Certification Request for the Work Opportunity Credit, to pre-screen and to make a written request to their State Workforce Agency to certify the individual is a qualified veteran. Generally, the Form 8850 must be filed with the State Workforce Agency within 28 days of when the eligible employee begins work. However, under IRS Notice 2012-13, employers have until June 19, 2012, to complete and file the form for veterans hired on or after November 22, 2011, and before May 22, 2012.

Furthermore, the qualified veteran must work for at least 120 hours for the WOTC credit to apply.

### *Amount of the Credit*

For exempt organizations, the WOTC is claimed as a credit against the employer's share of Social Security tax on wages paid to all employees of the organization during the 1-year period beginning with the day the qualified veteran begins employment. The WOTC is limited to the amount of employer Social Security tax owed on wages paid to all employees for the period for which the credit is claimed. Any excess can be carried forward by the employer and included in the cumulative credit figured for a subsequent quarter. The WOTC does not apply to the employer share of Medicare tax.

The amount of the credit depends on the individual's status as a qualified veteran, the length of unemployment before hiring, the number of hours the veteran works, and the veteran's first year wages. Employers who hire veterans with service-related disabilities may be eligible for the maximum credit.

First-year wages are the wages paid or incurred for work performed during the one-year period beginning on the date the individual begins work. An employee's first-year wages will not include wages paid (1) for services in activities not related to the organization's exempt purposes, or (2) during any period for which the organization received payment for the employee from a federally funded on-the-job training program. Also, the first-year wages for a qualified veteran will be zero if the individual was re-hired by the organization.

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## *Process for Claiming the Credit*

Once a veteran is certified as a "qualified veteran" by a State Workforce Agency and the employee has worked at least 120 hours, the tax-exempt employer may file Form 5884-C, Work Opportunity Credit for Qualified Tax-Exempt Organizations Hiring Qualified Veterans, to claim the credit. Form 5884-C is filed after the tax-exempt employer has filed its employment tax return (Form 941) for the period for which the credit is being claimed. The IRS suggests filing the Form 5884-C 8-12 weeks after the Form 941 for the quarter is filed to allow for the processing of the Form 941. However, the Form 5884-C must be filed within 2 years from the date the tax reported on the employment tax return was paid, or 3 years from the date the employment tax return was filed, whichever is later.

An employer may file one Form 5884-C to claim the credit for first-year wages paid to qualified veterans over multiple quarters, or it can choose to file separate Forms 5884-C to claim the credit for each quarter the first-year wages are paid.

Because the credit is not claimed on the employer's Form 941, the anticipated credit will not impact what the employer reports on Form 941. Moreover, because the Form 5884-C will be processed separately from the Form 941, the IRS recommends that employers do not reduce their deposits in anticipation of any credit.

Click [here](#) to access Form 8850 Instructions.

Click [here](#) to access Form 8850.

Click [here](#) to access Form 5884-C.

*For additional information, please contact a National Tax Services Exempt Organizations Tax Services Practice representative:*

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