



Montana Department of LABOR & INDUSTRY

Division: Workforce Services Division
Category: Job Service Operations
Effective Date: 07/01/2021
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Policy No.: 02-20

Work Opportunity Tax Credit (WOTC) Policy

Background: The Work Opportunity Tax Credit (WOTC) is a federal tax credit available to employers. WOTC reduces a business's tax liability and is an incentive to hire individuals from certain target groups who face barriers to employment. Administered by the U.S. Department of Labor (USDOL), with the Internal Revenue Service (IRS) managing the tax related provisions and requirements, WOTC is one of several workforce development programs that promote diversity in the workplace and access to jobs.

Scope: This policy applies to Job Service Montana (JSM) workforce consultants, managers and supervisors; Montana Department of Labor & Industry (MTDLI) Workforce Services Division (WSD) fiscal officers and monitoring team; and the Work Opportunity Tax Credit (WOTC) Program Manager; and the WOTC staff.

Policy:

Employers must apply for and receive a certification verifying that the new hire is a first-time hire and qualifying member of an eligible target group before claiming the tax credit.

A. Employers

- **For-profit** employers potentially qualify for the WOTC federal tax credit, if they hire qualified individuals under any of the targeted groups below.
- **Non-profit** employers only qualify for the federal tax credit when they hire a qualified Veteran or Disabled Veteran. No other target group applies.

B. Employer Representative Declaration form ETA 9198 (ERD)

ETA Form 9198 Employer Representative Declaration (ERD) authorizes an individual to represent an employer for WOTC purposes. Authorization of a representative allows that individual to facilitate an employer's WOTC certification requests, including submitting WOTC forms (IRS Form 8850 and ETA Forms 9061/9062/9175), and supporting documentation or information, on behalf of the employer.

- To submit a new ERD through the WOTC portal, you must also attach an exact copy of the completed and signed ERD. Failure to provide a copy of the completed and signed ERD with this submission will result in a denial of your request.
- **IMPORTANT NOTICE:** You may not designate more than two (2) authorized representatives per ERD. Upon approval representatives may add or substitute representatives within the same company unless prohibited by the employer.

C. Eligible Target Groups

- The WOTC target groups are defined as:
 - Qualified recipients of Temporary Assistance to Needy Families (TANF)
 - Qualified Veterans
 - Qualified Ex-Felons
 - Qualified Designated Community Resident (DCR)
 - Qualified Vocational Rehabilitation Recipient
 - Qualified Summer Youth Employee
 - Qualified Supplemental Nutritional Assistance Program (SNAP) (Food Stamps) Recipient
 - Qualified Supplemental Security Income (SSI) Recipient
 - Qualified Long-term Family Assistance (TANF) Recipient
 - Qualified Long-Term Unemployment Recipient

D. Certification Request

- To request a WOTC certification, an employer or employer's representative must complete and submit a Pre-Screening Notice & Certification Request (IRS 8850) and an Individual Characteristics Form (ETA 9061) or Conditional Certification Form (ETA 9062) within **28 days** of the new hire's start date. If the 28th day (due date) lands on a Saturday, Sunday or federal holiday, the due date is moved to the next business day.
- All electronic signatures must have the signatory's name with text that clearly indicates electronically signed by having something similar to "e-signed", or "signed electronically" written out.
- Both forms (IRS 8850 & ETA 9061) must be submitted by the due date via mail or online submission. Montana WOTC does not accept faxed or emailed applications.
 - Submit online through the MT Portal at <https://montana.servicenowservices.com/external>
 - Submit through regular mail to:
Montana Department of Labor & Industry, WOTC Unit
PO BOX 1728
Helena, MT 59624-1728.
- Additional information is available at <https://wsd.dli.mt.gov/employers/wotc>
- Additional documents and U.S. Department of Labor (USDOL) resources are available at <https://www.dol.gov/agencies/eta/wotc>

For additional IRS-related information about WOTC and eligible target groups please refer to <https://www.irs.gov/businesses/small-businesses-self-employed/work-opportunity-tax-credit>

Please note: When Montana WOTC receives a physical copy of an application (i.e., an application that was not submitted directly through the online system or portal), it will be entered in the order it was received. Montana WOTC will do its best to enter the information on the application as accurately as possible. Montana WOTC may update the application if evidence of a typographical error is provided while the application is being processed or within 90 days of the determination (i.e. a certification or denial). Montana WOTC may also check a target group box on form 9061 if no other target group boxes are checked and there is additional information in one of the boxes.

E. Supporting Documentation

When Montana WOTC has direct access to evidence of eligibility it will be used and documented to make a determination. When Montana WOTC does not have direct access to evidence of eligibility it will be the responsibility of the employer or employer's representative to provide supporting documentation that contains evidence of eligibility.

When an application is received without the required supporting documentation, Montana WOTC will send a needs letter to the employer or employer's representative. The employer or employer's representative will have

85 365 days to respond with supporting documentation outlined in the needs letter. If there is no response within
86 365 days, the application will be processed as is and there is no guarantee of the determination outcome.
87 Applications that have been determined (i.e., certified or denied) when there is no response to a needs letter
88 are not eligible for appeal.
89

90 F. Requesting an Appeal.

91 Montana WOTC must receive a written request for an appeal within 90 calendar days of a denial issuance.
92 Requests are accepted through mail and online submission, as well as through email at wotc@mt.gov. Appeal
93 requests must include the denial letter, an explanation of why an appeal is being requested, and any additional
94 documentation for Montana WOTC to consider.
95

96 G. Requesting a Redetermination

97 Montana does not redetermine certifications for higher target groups. To avoid your application getting certified
98 for a lower target group, please respond to needs letters before the 365-day timeline ends.
99

100 H. Calculating the Tax Credit

101 The calculations for most target groups are based on qualified wages paid to the employee for the first year of
102 employment. After the required certification is secured, taxable employers (for-profit) claim the tax credit as a
103 general business credit on their income tax by filing an IRS Form 5884 while tax-exempt (non-profit) employers
104 claim the credit against their social security tax by filing IRS Form 5884C.

105 Additional information for determining the amount of the tax credit can be found at [26 CFR 1.50A-1 –](#)
106 [Determination of amount](#)

107 Additional information for the amount of credit can be found at [26 USC 51: Amount of credit](#)

108 Administrative Requirements:

109 A. General Administration

110 MTDLI's WSD responsibilities include:

- 111 • Implementing the certification process and issuing final determinations to employers or their authorized
112 representative; with technical assistance provided by the WOTC Program Manager as needed.
 - 113 • Promoting the WOTC program to employers;
 - 114 • Reducing and eliminating existing backlogs;
 - 115 • Reporting performance data and expenditures quarterly; and
 - 116 • Additional responsibilities outlined in WOTC Statement of Work.
- 117

118 B. Appeals Resolution Process

- 119 • MTDLI's WSD staff will be available to resolve issues as they arise. Please see above section on
120 requesting an appeal.
- 121 • Issues that cannot be resolved by MTDLI's WSD staff must be submitted in writing to USDOL's
122 Employment and Training Administration (ETA) Office for Region 4:

123 Nick Lalpui, Regional Administrator
124 525 S Griffin St 3RD FL
125 Dallas, TX 75202
126 972-850-4631
127 Fax: 972-850-4620
128 Email: R04-RA-DAL-Public@dol.gov
129

130 Monitoring and Technical Assistance:

131 MTDLI's WSD monitoring of the WOTC program will include:

- 132 • Verification of the eligibility of a random sample of individuals certified under WOTC; and
- 133 • WOTC Program Manager’s technical assistance to remedy results if necessary.

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135 References:

- 136 • [USDOL: How to File A Certification Request](#)
- 137 • [USDOL: Work Opportunity Tax Credit Fact Sheet](#)
- 138 • [IRS: Work Opportunity Tax Credit](#)
- 139 • [IRS Code of 1986, Section 51](#)
- 140 • [TEGL 06-23, Change 2 WOTC Funding Allotments for FY2024](#)
- 141 • [TEGL 16-20, Change 1 Updated Procedural Guidance](#)