

Work Opportunity Tax Credit and Other Federal Credits/Incentives Extended

December 19, 2014

Overview

On December 19, 2014, President Obama signed into law the Tax Increase Prevention Act of 2014 ("TIPA").¹ The new law contains termination date extensions through December 31, 2014, applicable to the Work Opportunity Tax Credit, Empowerment Zone Incentives, the Indian Employment Tax Credit, and a number of other provisions. In this Tax Alert we summarize these and other related provisions extended by the TIPA.

Highlight of Extended Provisions

Among the dozens of expired provisions that are renewed through 2014 under the TIPA are the following federal tax credits:

- Research and Experimentation Credit
- New Markets Tax Credit
- Work Opportunity Tax Credit
- Empowerment Zone tax incentives (the District of Columbia zone remains expired)
- Indian Employment Tax Credit
- Credit for certain expenditures for maintaining railroad tracks
- Mine Rescue Team Training Credit
- Employer Wage Credit for Activated Military Reservists
- Production tax credit for wind and other alternative forms of energy
- Credit for alternative fuel vehicle refueling property
- Credit for construction of energy-efficient new homes

Extension of the Work Opportunity Tax Credit

The TIPA extends the Work Opportunity Tax Credit ("WOTC") expiration date from December 31, 2013 to December 31, 2014.² The WOTC serves as a federal income tax credit designed to encourage businesses to hire individuals from certain targeted groups, with the WOTC potentially reducing an employer's federal income tax liability by up to \$9,600 per qualified applicant (depending upon the applicable employee target group).³ To be eligible for the credit, employers are required to timely file requests for certification with State Workforce Agencies ("SWAs"). Tax exempt employers that hire qualified veterans may claim this credit against Social Security taxes.⁴

Extension of Empowerment Zone Tax Incentives

The TIPA extends from December 31, 2013 to December 31, 2014, the period for which an Empowerment Zone designation shall be in effect for certain economically depressed census tracts.⁵ The Empowerment Zone Hiring Credit program provides an annual federal income tax credit of up to \$3,000 per Empowerment Zone resident hired.⁶

¹ H.R. 5771, 113th Cong. (Dec. 19, 2014) (enacted).

² TIPA Sec. 119(b), amending Internal Revenue Code ("IRC") §51(c)(4)(B).

³ IRC §51(a), (b).

⁴ IRC §3111(e).

⁵ TIPA Sec. 139(a), amending IRC §1391(d)(1)(A)(i).

⁶ IRC §1396(c)(2).

Extension of Indian Employment Tax Credit

The TIPA extends through December 31, 2014, the federal income tax credit for the hiring of qualified persons that work and live on or near an Indian reservation.⁷ The program provides an annual tax credit of up to \$4,000 based on wages and health insurance costs paid to qualified employees.⁸

Other Renewed Provisions under the TIPA

This Tax Alert does not discuss all of the federal credits and incentives addressed under the TIPA. Additional federal credits and incentives were renewed, or not renewed, under the TIPA, but are beyond the scope of this Tax Alert.

2015 Considerations

The TIPA extends the temporary tax credits and incentives through December 31, 2014, a one-year extension as opposed to the often-seen two-year extension. Until further action is taken by Congress, the temporary tax credits and incentives are set to expire again as of midnight on December 31, 2014.

While it is unclear what will happen in 2015 with respect to the WOTC, it is perhaps relevant that the U.S. Department of Labor (“DOL”) issued Training and Employment Guidance Letter No. 8-13 in January 2014, when the WOTC had similarly expired at the end of the prior calendar year. Within this guidance the Employment and Training Administration (“ETA”) instructed SWAs to continue to accept employer certification requests in anticipation that Congress would retroactively reauthorize this federal credit.⁹ We will continue to monitor whether the ETA will issue similar guidance for 2015.

Taxpayer Considerations Regarding the WOTC

In light of the current extension and subsequent pending expiration of the WOTC for 2015, taxpayers may wish to consider those actions that would enable WOTC qualification in the event that Congress retroactively reauthorizes the WOTC for 2015. Included among actions to consider are the following:

- 1) The continued screening of employee candidates and the completion of page 1 of IRS Form 8850 (*Pre-screening Notice and Certification Request for the Work Opportunity Credit*) on or before the day the job offer is made;
- 2) Completion of page 2 of IRS Form 8850 after a qualified individual is hired;
- 3) Completion of ETA Form 9061 (*Individual Characteristics Form Work Opportunity Tax Credit Applicant Information*); and
- 4) Submission of the completed and signed IRS and ETA forms to the applicable SWA (note that such forms must be submitted within 28 calendar days of the employee’s start date).

Contacts

If you have questions regarding the TIPA, the WOTC or the other federal credits and incentives, or state employment credits, please contact any of the following Deloitte Tax professionals.

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⁷ TIPA Sec. 114(a), amending IRC §45A(f).

⁸ IRC §45A(a).

⁹ DOL Training and Employment Guidance Letter No. 8-13 (Jan. 2, 2014), accessible at: http://wdr.doleta.gov/directives/attach/TEGL/TEGL_8_13.pdf.

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