

IRS provides additional time to file Form 8850 to claim WOTC

Overview

On March 7, 2016, the Internal Revenue Service (IRS) issued Notice 2016-22, providing guidance to employers claiming the Work Opportunity Tax Credit (WOTC) under Internal Revenue Code (IRC) §§ 51 and 3111(e).¹ For certain employers seeking to qualify for the WOTC, the Notice provides additional time beyond the 28-day deadline specified in IRC § 51(d)(13)(A) to submit Form 8850 (*Pre-screening Notice and Certification Request for the Work Opportunity Credit*) to Designated Local Agencies (DLA).

This Tax Alert summarizes this IRS guidance.

Protecting Americans from Tax Hikes of 2015

The Protecting Americans from Tax Hikes Act of 2015 (PATH),² retroactively extended the WOTC expiration date from December 31, 2014 to December 31, 2019, as applied to business that hire employees who fall within certain targeted groups.³

Notice 2016-22 Transitional Relief—additional time to submit Form 8850

In Notice 2016-22 the IRS acknowledges that the PATH's retroactive extension of the WOTC may cause employers to "need additional time to comply with the requirements of IRC §51(d)(13)(A)[,]" namely, the filing of Form 8850 with a DLA.⁴ To address this concern, Notice 2016-22 provides transitional relief applicable to the timing for filing Form 8850 by employers that hire a member of a targeted group on or after January 1, 2015, and on or before May 31, 2016 and employers that hire a member of the new targeted group, qualified long-term unemployment recipients,⁵ on or after January 1, 2016 and on or before May 31, 2016. As specified in the Notice, employers will be considered to have satisfied the requirements of § 51(d)(13)(A)(ii) if they submit the completed Form 8850 to the applicable DLA to request certification not later than June 29, 2016.

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¹ The WOTC is a federal income tax credit of up to \$9,600 for each qualified newly hired employee, depending upon qualified category. See, IRC § 51(a), (b).

² H.R. 2029 114th Cong. (2015-2016).

³ The members of the target groups that qualify under WOTC are defined in IRC §51(d).

⁴ Notice 2016-22.

⁵ The term qualified long-term unemployment recipient is defined as "any individual who is certified by the designated local agency as being in a period of unemployment which—(A) is not less than 27 consecutive weeks, and (B) includes a period in which the individual was receiving unemployment compensation under State or Federal law." PATH Sec 142(b), amending IRC §51(d).

