

Part III - Administrative, Procedural, and Miscellaneous

Section 51 - Work Opportunity Tax Credit

Notice 2009-69

PURPOSE

This Notice clarifies Notice 2009-28, 2009-24 I.R.B. 1082, published on June 15, 2009. As explained in Notice 2009-28, § 51 of the Internal Revenue Code (the Code) provides for a Work Opportunity Tax Credit (WOTC) for employers who hire individuals who are members of targeted groups. Section 1221 of the American Recovery and Reinvestment Tax Act of 2009 (ARRTA), enacted February 17, 2009, Div. B, Tit. I of Pub. L. No. 111-5, amended § 51 to add two new targeted groups for purposes of the WOTC. New § 51(d)(14) provides that unemployed veterans and disconnected youth who begin work for an employer during 2009 or 2010 shall be treated as members of a targeted group for purposes of the WOTC.

Notice 2009-28 sets forth the statutory definitions of “unemployed veteran” and “disconnected youth,” and provides guidance on the definition of “disconnected youth.” With respect to “disconnected youth,” Notice 2009-28 is being revised to clarify § 51(d)(14)(B)(ii)(IV), the definition of “not readily employable by reason of lacking a sufficient number of basic skills.”

Section D of Notice 2009-28 is therefore revised to read as follows:

For purposes of § 51(d)(14)(B)(ii)(IV), an individual is not readily employable by reason of lacking a sufficient number of basic skills if the individual states in writing that he or she does not have a certificate of graduation from a secondary school or a GED Certificate. For purposes of § 51(d)(14)(B)(ii)(IV), an individual also is not readily employable by reason of lacking a sufficient number of basic skills if the individual states in writing that he or she has a certificate of graduation from a secondary school or a GED Certificate that was awarded no less than 6 months preceding his or her hiring date and has not held a job (other than occasionally) or been admitted to a technical school or post-secondary school since receiving the certificate.

This clarifies that an individual who received a high school diploma or GED certificate at least six months prior to the hiring date and who otherwise satisfies the requirements for a disconnected youth will not fail to qualify as a disconnected youth merely because the individual has been employed at times since graduation, as long as that employment was no more than occasional.

TRANSITION RELIEF

Section 51(d)(13) provides that an individual shall not be treated as a member of a targeted group unless the employer obtains certification from a designated local agency on or before the day the individual begins work that the individual is a member of a targeted group or completes a pre-screening notice (IRS Form 8850) on or before the day the individual is offered employment and submits such notice to the designated local agency to request certification not later than 28 days after the individual begins work. Notice 2009-28 provides that any employer who hires an unemployed veteran or a disconnected youth (as defined in § 51(d)(14)) after December 31, 2008, and before July 17, 2009, will be considered to satisfy the deadline in § 51(d)(13)(A)(ii)(II) if the employer submits the pre-screening notice to the designated local agency to request certification not later than August 17, 2009. This notice extends the transition relief in Notice 2009-28. Specifically, under this notice, any employer who hires an unemployed veteran or disconnected youth (as defined in § 51(d)(14)) after December 31, 2008, and before September 17, 2009, will be considered to satisfy the deadline in § 51(d)(13)(A)(ii)(II) if the employer submits the pre-screening notice to the designated local agency to request certification not later than October 17, 2009.

EFFECT ON OTHER DOCUMENTS

Notice 2009-28, 2009-24 I.R.B. 1082, is clarified.

DRAFTING INFORMATION

The principal author of this notice is Robin Ehrenberg of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other individuals participated in its development. For further information regarding this notice contact Ms. Ehrenberg at (202) 622-6080 (not a toll-free call).