



Work Opportunity Tax Credit For Federal Tax-Exempt Nonprofits

Frequently Asked Questions

President Obama recently signed into law the VOW to Hire Heroes Act of 2011. The Act allows employers to claim a tax credit when they hire a qualified veteran. The goal of the legislation is to assist veterans, especially veterans of the Iraq and Afghanistan wars, in finding employment after they return to civilian life.

Many tax-exempt nonprofit organizations hire veterans and could qualify for the credit. Because organizations that are exempt under Section 501(c)(3) do not pay income tax, the Act provides an alternative way for nonprofits to utilize the credit by reducing its contributions to Social Security. Nonprofits may be able to claim a credit up to \$6,240.

The purpose of this information sheet is to answer questions that tax-exempt employers may have about how the new veterans credit works and what an organization must do in order to claim the credit.

I. Employer Eligibility

Q1. What is the veterans' credit?

A1. The veterans' credit is part of the Work Opportunity Tax Credit (WOTC) program. The federal government offers the WOTC in order to create an incentive for employers to hire certain groups of individuals that have high unemployment rates or other special needs. The Vow to Hire Heroes Act of 2011 expands the WOTC so that nonprofits which hire unemployed veterans qualify for the credit.

Q2. What kinds of nonprofit organizations are eligible for the WOTC?

A2. Any organization that is tax exempt under 501(c) is eligible for the credit.

Q3. How does a nonprofit employer qualify for the credit?

A3. In order to qualify for a credit, an employer must hire a qualified veteran who begins work on or after November 22, 2011, and before January 1, 2013.

Q4. When can employer claim the credit?

A4. An employer can claim a credit when it hires a qualified veteran before January 1, 2013 and the veteran has worked at least 120 hours for the employer.

The time frame in which a qualified veteran must work at least 120 hours begins on the hire date of the qualified veteran and ends on the day that the employer files for the credit. For example, ABC Nonprofit

hires a qualified veteran July 1st. At the end of the veteran's first quarter of employment, September 30th, he has worked more than 120 hours. At this point, ABC may file for the credit.

The 120-hour threshold only affects the timing of when a nonprofit becomes eligible for a credit. The credit will apply to wages paid or incurred within the tax period for which a nonprofit claims the credit, not just the wages paid at the 120-hour threshold.

II. Qualifying Employee

Q5. Who is a qualified veteran?

A5. "Qualified veterans" are certain former members of the U.S. Armed Forces who have been officially certified as meeting specific conditions.

To be considered a veteran, the individual has to meet two requirements:

1. The individual must have served on active duty in the U.S. Armed Forces for more than 180 days. Time for training does not count towards "active duty." An individual does not have to serve the required 180 days consecutively. If an individual with less than 180 days of active duty is discharged because of a service-connected disability, then he or she will be treated as having served 180 days; and
2. The individual must not have finished a period of active duty (not including training) of more than 90 days within 60-days of hiring. The goal is to give preference to veterans who have been unable to find employment.

A veteran will also be considered a qualified veteran if the veteran meets any of the following criteria:

- A member of a family that has received food stamp assistance for at least a 3-month period during the year prior to the hiring date;
- Unemployed for a period totaling at least 4 weeks but less than 6 months in the year prior to the hiring date;
- Unemployed for a period 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 within a year after being discharged from active duty; or
- Entitled to compensation for a service-connected disability and unemployed for a period totaling at least 6 months in the year prior to the hiring date.

These periods of unemployment can be cumulative and do not have to be consecutive weeks.

III. Calculating the Credit

Q6. How will the credit reduce my organization's tax liability?

A6. Eligible nonprofit employers can claim the WOTC against the employer's share of Social Security tax. The credit will not affect how an organization reports its Social Security tax, but the credit can be used to offset Social Security tax liability. If a nonprofit is eligible for a credit that exceeds its Social Security tax liability, the nonprofit can carry over the unused portion to offset its Social Security tax for a subsequent tax period.

Q7. How is the WOTC calculated?

A7. The credit is calculated by taking a percentage of the veteran’s first year wages, up to a specified cap. The percentage that a nonprofit applies depends on how many hours the veteran works by the time the nonprofit claims the credit:

<u>Hours worked by veteran</u>	<u>Percentage of wages that a nonprofit may claim as a credit</u>
less than 120 hours	0%
120 hours but less than 400 hours	16.25%
400 hours or more	26%

The amount of wages to which the percentage may be applied depends of what category the veteran is included in. See the chart below for the maximum credit amounts that a nonprofit can claim:

Category of Qualified Veteran being hired	Worked at least 120 hours but less than 400 hours	Worked at least 400 hours
Veteran a member of a family receiving food stamps for at least a 3-month period ending during the 12-month period ending on the hiring date.	Max Credit: 16.25% of \$6,000 of first-year wages (up to \$975)	Max Credit: 26% of \$6,000 of first-year wages* (up to \$1,560)
Veteran has aggregate periods of unemployment of at least 4 weeks but less than 6 months in the year prior to being hired	Max Credit: 16.25% of \$6,000 of first-year wages (up to \$975)	Max Credit: 26% of \$6,000 of first-year wages (up to \$1,560)
Disabled veteran who has hiring date which is not more than 1 year after discharge or release from active duty	Max Credit: 16.25% of \$12,000 of first-year wages (up to \$1,950)	Max Credit: 26% of \$12,000 of first-year wages (up to \$3,120)
Veteran has aggregate periods of unemployment of 6 months or more in the year prior to being hired	Max Credit: 16.25% of \$14,000 of first-year wages (up to \$2,275)	Max Credit: 26% of \$14,000 of first-year wages (up to \$3,640)
Disabled veteran who has aggregate periods of unemployment of 6 months or more in the year prior to being hired	Max Credit: 16.25% of \$24,000 of first-year wages (up to \$3,900)	Max Credit: 26% of \$24,000 of first-year wages (up to \$6,240)

*Wages include those wages paid as of the date the claim is filed, provided the wages were paid to the qualified veteran during his or her first year of employment.

The following examples illustrate how the credit is calculated:

Example 1:

ABC Nonprofit hires a qualified veteran on February 6, 2012 and, as of May 1, 2012, meets all the requirements to claim a credit for qualified first-year wages paid in the first quarter. ABC timely files its 2012 first quarter Form 941.

ABC files a claim for the credit for the first quarter of 2012 on May 1, 2012. As of May 1 the qualified veteran has worked a total of 360 hours for ABC. Because the qualified veteran worked more than 120 hours but less than 400 hours between date of hire and May 1, 2012, ABC uses the 16.25% rate to calculate the credit on the qualified first-year wages paid to the qualified veteran from the date of hire through the end of the first quarter.

The veteran is disabled and was paid \$14,000. Therefore, the amount of the nonprofit's credit is \$1,950 (16.25% of the first \$12,000 of wages).

Example 2:

Same facts as Example 1, except the veteran was unemployed for 6 months in the year prior to being hired and ABC files the claim for a credit for the first two quarters of 2012 on July 12, 2012. At the time ABC files for the credit, the qualified veteran has worked 610 hours for the organization and been paid \$23,180. Because the qualified veteran worked more than 400 hours between the date of hire and July 12, 2012, ABC may use the 26% rate to calculate the credit on the amount paid to the veteran from the date of hire through the end of the second quarter. Moreover, because the disabled veteran had been unemployed, the nonprofit can apply the credit against a maximum of \$24,000 of first year wages. Therefore, the nonprofit is entitled to a \$6,026 credit (26% of the \$23,180 of wages paid in the first two quarters of 2012).

IV. Claiming the Credit

Q8. How does a veteran become certified as a qualified veteran?

A8. Before a nonprofit employer can claim the WOTC, it must first obtain certification from the state in which it operates that a veteran qualifies. To obtain certification, a job applicant and the employer must request certification from an appropriate State Workforce Agency. In the District of Columbia, the agency that processes these requests is the Department of Employment Services (DOES).

To provide a certification, the employer must file two documents with the State Workforce Agency:

1. Form 8850, Pre-Screening Notice and Certification Request for the Work Opportunity Credit
2. Form 9061, Individual Characteristic Form

Additionally, Form 9061 requires support documentation to verify that a veteran qualifies. The instructions to Form 9061 specify which documents or contact persons can be used as proof for each of the criteria.

As an alternative to Form 9061, a nonprofit can submit a Form 9062, Conditional Characteristics Form. In some instances, a qualified veteran may apply for work with a nonprofit after already receiving conditional verification of his or her qualifications for the WOTC. Certain agencies, such as a Vocational Rehabilitation Agency, an Employment Network, or a State Workforce Agency, have authority to issue Form 9062 to individuals. A nonprofit can submit this form instead of Form 9061 and without further support documentation to the State Workforce Agency.

Q9. Is there a deadline to submit the required forms to the State Workforce Agency?

A9. Yes. For veterans hired on or after Nov. 22, 2011 and before May 22, 2012, a nonprofit employer will have until June 19, 2012 to complete and file Form 8850 and Form 9061 with its State Workforce Agency.

For veterans hired on or after May 22, 2012, a nonprofit employer must file Form 8850 and Form 9061 within 28 days after the qualified veteran begins work.

Q10. How is the WOTC claimed?

A10. When filing its Form 941, Wage Withholding Return, a nonprofit should report its full tax liability, without taking into account any credit it may have earned. In order to claim the credit, a nonprofit employer should file Form 5884-C, Work Opportunity Credit for Qualified Tax-Exempt Organizations Hiring Qualified Veterans, with the IRS. Form 5884-C is filed after a nonprofit has filed its employment tax return for the tax period for which it is claiming the credit. The IRS reviews the Form 5884-C separately from an organization's employment tax return. After approving the WOTC, the IRS will issue a refund to the employer for the appropriate amount.

Generally, an organization should not file more than one Form 5884-C per employment tax period. An organization that wants to take advantage of the larger percentage should wait until the veteran has worked at least 400 hours before filing for a credit.

Q11. What happens if my organization deducts the amount of a credit on its employment tax return?

A11. A nonprofit may elect to reduce the amount of tax it pays with its Form 941 by the amount of the credit it expects to receive. However, the nonprofit is at risk if the credit is not approved. While waiting for approval of Form 5884-C, a nonprofit that has reduced its required deposits in anticipation of a credit may receive a notice of deficiency. If the IRS does not approve the credit, the nonprofit will be responsible for the balance due, including penalties and interest, for the unreported tax. If the IRS approves the credit, it will abate the balance, generally without any taxpayer action.

Q12. What information will my organization need in order to claim the credit?

A12. In addition to the certification from the State Workforce Agency, your organization will need:

- The date the veteran began working for the organization,
- The criteria by which the veteran qualifies the organization for the WOTC,
- The number of hours he or she has worked,
- Employee's wages during the one-year period beginning on the date he or she began work (as of the date you are filing Form 5884-C),
- Information from the employment tax return for the period against which the organization calculates the credit, and
- Information from any previously filed Forms 5884-C

Q13. When must my organization file for the credit?

A13. 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. Your organization should file Form 5884-C for each employment tax period during which the organization paid qualified first-year wages to a qualified veteran.

A nonprofit may file one Form 5884-C to claim the credit over multiple quarters, or it can choose to file separate Forms 5884-C to claim the credit for each quarter. If filing one Form 5884-C to claim the credit

May 2012

for wages paid over multiple quarters, a nonprofit should designate the latest of those quarters as the quarter for which the credit will apply.

For Further Information:

- IRS website, announcement on WOTC, <http://www.irs.gov/businesses/small/article/0,,id=253949,00.html>
- Form 5884-C, Work Opportunity Credit for Qualified Tax-Exempt Organizations Hiring Qualified Veterans, <http://www.irs.gov/pub/irs-pdf/f5884c.pdf>
- Form 8850, Pre-Screening Notice and Certification Request for the Work Opportunity Credit, <http://www.irs.gov/pub/irs-pdf/f8850.pdf>
- Form 9061, Individual Characteristics Form for the Work Opportunity Tax Credit, http://www.doleta.gov/business/incentives/opptax/PDF/eta_form_9061.pdf
- DC One City One Hire website, DOES information on WOTC, <http://onecityonehire.org/wotc.aspx>
- U.S. Department of Labor website, DOL information on WOTC, <http://www.doleta.gov/business/Incentives/opptax/>

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