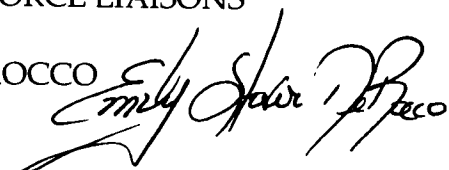


EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WOTC/WtWTC
	CORRESPONDENCE SYMBOL OWI
	DATE January 31, 2006

TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 12-05

TO: ALL STATE WORKFORCE AGENCIES
ALL STATE WORKFORCE LIAISONS

FROM: EMILY STOVER DeROCCO
Assistant Secretary



SUBJECT: Work Opportunity Tax Credit (WOTC) Temporary Target Group for Hurricane Katrina Employees and New Retention Tax Credit

1. **Purpose.** To inform the state workforce agencies (SWAs) of the new temporary WOTC target group and the retention tax credit included in the Katrina Emergency Tax Relief Act of 2005 and clarify the SWAs' role.
2. **References.** The Katrina Emergency Tax Relief Act of 2005 (P.L. 109-73); the Working Families Tax Relief Act of 2004 (P.L. 108-311); Internal Revenue Code of 1986, Sections 51 and 51A, as amended; Employment and Training Administration (ETA) Handbook No. 408, Third Edition, November 2002; and the May 2005, Addendum to ETA Handbook 408.
3. **Background.** On August 28, 2005, Hurricane Katrina devastated certain areas in the states of Louisiana, Mississippi and Alabama. On September 21, Congress passed a relief package to help businesses and families recover and rebuild in the aftermath of Hurricane Katrina. On September 23, 2005, President Bush signed into law the Katrina Emergency Tax Relief Act (the Act) of 2005 (P.L. 109-73).
4. **Information.**
 - A. **Title II. "Employment Relief."** Section 201 of this Act expands the WOTC program by adding a new, temporary target group, "Hurricane Katrina Employees." The WOTC for "Hurricane Katrina employees" is a federal income tax credit that encourages employers to hire individuals who lived in the hurricane disaster areas and lost their jobs. This legislation also simplifies the process that employers must follow in order to obtain the WOTC. This law, however, did not reauthorize the overall WOTC and WtWTC beyond December 31, 2005.

RESCISSIONS	EXPIRATION DATE
-------------	-----------------

1. The Work Opportunity Tax Credit (WOTC) for Hurricane Katrina Employees. In accordance with the provisions in Section 51 of the Internal Revenue Code (IRC) of 1986, as amended, the tax credit for this target group allows a maximum credit of \$2,400 (of the first \$6,000 paid in wages) per new hire so long as the employee works at least 400 hours or more.
2. New Hires That Qualify Employers for the Hurricane Katrina WOTC. The credit applies to the following new hires (target group members):
 - a. Any individual, who on August 28, 2005, lived in the core disaster area and is hired during the two-year period beginning on such a date for an employment position located in the core disaster area; and
 - b. Any individual, who on August 28, 2005, lived in the core disaster area, was displaced from his house/dwelling as a result of Hurricane Katrina, and is hired during the period beginning on such date and before January 1, 2006.
3. Period of Eligibility. Employers that hire “Hurricane Katrina Employees” for employment outside of the affected areas can be eligible for the tax credit if they hire Hurricane Katrina impacted individuals, who begin to work on or after August 28, 2005, and before January 1, 2006. In the case of an individual who is being hired for a position that has a principal place of employment within the Hurricane Katrina disaster area, the period of eligibility is extended until August 28, 2007.
4. Waivers. Title II. “Employment Relief.” Section 201. The Work Opportunity Tax Credit for Hurricane Katrina Employees of the Katrina Emergency Tax Relief Act of 2005 (P.L. 109-73) waives the following WOTC provisions or requirements:
 - a. The certification requirement by the SWAs for all Hurricane Katrina Employees. In lieu of the certification requirement, an individual may provide to the employer reasonable evidence that he/she is a Hurricane Katrina Employee. The IRS will determine what “reasonable” evidence means.
 - b. The expiration date (December 31, 2005) for this target group only.
 - c. The rule that denies the credit to wages of employees who had been previously employed by the employer is waived for an individual who is first hired as a Hurricane Katrina Employee, unless such employee was an employee of the employer on August 28, 2005.

5. Applying for the WOTC. To apply for the credit and request certification, employers do not need to complete the required WOTC ETA 9061 and Internal Revenue Service (IRS) 8850 forms. The IRS has indicated that they may develop a new form for this target group. It is posted on their Web site.
 6. Definitions.
 - a. "Hurricane Katrina Disaster Area" is an area declared a major disaster by the President before September 14, 2005, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina, Section 2(1); and
 - b. "Core Disaster Area" is that portion of the Hurricane Katrina disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act.
- B. Title II. "Employee Retention Credit for Employers Affected by Hurricane Katrina. Sec. 201" The new tax credit provides 40 percent of the qualified wages (up to a maximum of \$6,000 in qualified wages per employee) paid by an "eligible employer" to an "eligible employee." The credit is available only to small businesses with fewer than 200 employees. The following definitions apply:
1. An "eligible employer" is an employer:
 - a. that conducted an active trade or business on August 28, 2005, in the core disaster area; and
 - b. whose trade or business described in (1) is inoperable on any day after August 28, 2005, and before January 1, 2006, as a result of damage caused by Hurricane Katrina.
 2. An "eligible employee" is, with respect to an eligible employer, an employee:
 - a. whose principal place of employment on August 28, 2005, with such employer was in a core disaster area; and
 - b. whose "eligible employer" did not claim a credit under section 51 of the Internal Revenue Code (IRC) with respect to the employee for the period.
 3. "Qualified wages" are wages that include wages paid whether the employee performs no services, performs services at a different place of employment than the principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

This means that the only eligible wages are those paid while the business location is inoperable and before January 1, 2006. The credit is part of the employer's current business credit under section 38(b) of the IRC and therefore is subject to the tax liability limitations of section 38(c) of this code.

5. **Role of the state workforce agencies (SWAs)**. The role of the SWAs is limited to providing accurate information and timely responses to inquiries received from private sector businesses and their representatives, participating agencies, and other Federal and state partners. For additional information, the SWAs should refer to the IRS Web site at www.irs.gov.
6. **Action**. State workforce agency administrators should ensure that all WOTC/WtWTC State Coordinators, One-Stop Career Centers, and related staff receive this information and guidance.
7. **Inquiries**. Direct all questions to the WOTC Regional Coordinators.
8. **Attachments**. Title II, Sections 201 and 202, Katrina Emergency Tax Relief Act of 2005 (P.L. 109-73).