

# Workers with Disabilities Tax Credit Program (WDTC)

## QUESTIONS AND ANSWERS

(Last update: 8/12/15)

QUESTION	ANSWER
<b>1. Does the tax credit apply for individuals hired by NYS Industries for the Disabled or the National Industries for the Severely Handicapped?</b>	The answer is <b>no</b> if the worker is on the provider payroll since the providers in question are Not for Profit entities. However, if a worker is on the payroll of an eligible For Profit business and has been certified by the NYS Department of Labor to participate in the WDTC, then the answer is <b>yes</b> .
<b>2. Where can you obtain the Application that must be completed by individuals with developmental disabilities in order to become certified for tax credit participation?</b>	The authorizing legislation for which the WDTC was established requires the NYS Education Department or the NYS Office for People with Developmental Disabilities to certify individuals for whom the tax credit will be claimed. These agencies are working through their network of providers to assist and certify individuals wishing to participate in the program, and will use the Individual Application process to accomplish this goal. The application can be found here: <a href="http://www.labor.ny.gov/wdtk">www.labor.ny.gov/wdtk</a>
<b>3. How do Not for Profits with a 501c3 get access to these tax credits?</b>	The authorizing legislation for which the WDTC was established does not address Not for Profit eligibility. It is the opinion of the NYS Department of Labor that any organization/entity that has applied for and received a NYS income tax exemption does not qualify for the WDTC.
<b>4. Is the new credit one year only?</b>	Yes, the tax credit is for one year only. More specifically, the WDTC is available to certified businesses that hire eligible individuals as long as the individual is employed for a period not less than 6 months. When requesting the tax credit, the certified business needs to be aware that the tax credit is available per eligible individual hired and can only be applied for one tax year. A business cannot seek a tax credit for an individual more than once. It is important to note that there is no cap on the number of eligible new hires a business can request a tax credit. The tax credit program is set to expire on January 1, 2020.
<b>5. How does WDTC affect or impact WOTC/WETC?</b>	The authorizing legislation for which the WDTC was established specifically states that a qualified employer may not claim the WDTC if the employer claims any of the other credits for employment of persons with disabilities (i.e., WOTC or WETC).  If a business opts not to file WDTC, then that business can claim

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	<p>WOTC in year one of hire and WETC in year two of hire.</p> <p>More specifically, WOTC, in conjunction with WETC, is an opportunity for employers to gain from hiring individuals with disabilities. For the first year of employment, the federal tax credit WOTC is in effect. The tax credit is 40% of the first \$6,000 in wages. The state tax credit WETC is in effect for the second year of employment and the amount of the tax credit is 35% of the first \$6,000 in qualified wages for that year. Therefore, when WOTC is linked with WETC the total credit possible is <b>\$4,500</b>.</p> <p>Keep in mind the maximum tax credit allowed under WDTC is \$5,000 which may make this tax credit more attractive than WOTC/WETC.</p>
<p><b>6. If a person has been employed in a sheltered workshop do you answer “yes” or “no” on the Individual Application regarding the question that asks if the person has been unemployed for 3 months prior to 1/1/15?</b></p>	<p>The answer is ‘no.’</p> <p>The authorizing legislation for which the WDTC was established specifically states that for an individual to be eligible under the program they must have been an employee of a sheltered workshop <u>or</u> unemployed for at least three months prior to the start of the New Year on January 1<sup>st</sup>. As long as one of the boxes on the individual application is checked “yes” for the mutually exclusive criteria above, the individual meets the criteria for eligibility under the WDTC.</p>
<p><b>7. Can you use WOTC and WETC at the same time?</b></p>	<p>No.</p> <p>WOTC, in conjunction with WETC, is an opportunity for employers to gain from hiring individuals with disabilities. For the first year of employment, the federal tax credit WOTC is in effect. The tax credit is 40% of the first \$6,000 in wages. The state tax credit WETC is in effect for the second year of employment and the amount of the tax credit is 35% of the first \$6,000 in qualified wages for that year. Therefore, when WOTC is linked with WETC the total credit possible is <b>\$4,500</b>.</p> <p>Keep in mind the maximum tax credit allowed under WDTC is \$5,000 which may make this tax credit more attractive than WOTC/WETC.</p>
<p><b>8. What defines “employment” for tax credit eligibility (e.g., piecework wages, minimum wages, being on a payroll, etc.)?</b></p>	<p>For purposes of this tax credit, employment is an agreement between an employer and an employee that the employee will provide certain services on the job, and in the employer's designated workplace, to facilitate the accomplishment of the employer organization’s goals and mission, in return for <u>compensation</u>. The agreement can be verbal, implied, or an official employment contract.</p>

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	Employment would occur if the employer is withholding and paying personal income taxes on wages, salaries, bonuses, commissions and other similar income paid to employees.
<b>9. Should we be registering all of our participants in our sheltered workshops for these tax credits or can they register after December 2015?</b>	The authorizing legislation for which the WDTC was established specifically states that the tax credit program will expire on January 1, 2020. The registration process is ongoing and can be completed after December 31, 2015. However, it will become important to register an individual if it is certain that individual will be leaving a shelter workshop to begin employment at a For Profit business.
<b>10. When the name changes to Workers with Disabilities Tax Credit, will it then be usable by people with ALL disabilities rather than only those with developmental disabilities?</b>	Despite the name change, the authorizing legislation for which the tax credit was established specifically states that a ‘qualified employee’ means an individual with a developmental disability.
<b>11. Do you have any pamphlets available for us to print and hand out to people?</b>	Informational fact sheets, brochures and pamphlets are currently under discussion with the NYS Department of Labor’s Communication’s Office and will be posted when available to: <a href="https://labor.ny.gov/businessservices/disability-tax-credit.shtm">https://labor.ny.gov/businessservices/disability-tax-credit.shtm</a>  Please refer to this website often as the most current information on the WDTC will be posted at this site.
<b>12. I have an employer that is based in another state but the job is in New York State. Would this employer be disqualified because of that?</b>	If the employer is a For Profit business filing taxes in New York State, this employer qualifies for the WDTC as long as they certify for eligibility with the NYS Department of Labor. The certification process will involve the vetting of the business by the Due Diligence Unit at the NYS Department of Labor. Once the business is cleared for eligibility they qualify for the tax credit as long as the individual hired has been certified eligible and the job is located in NYS.