



Monthly Strategies

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Vaccine Incentives or Mandate?

Some employers are planning to mandate COVID-19 vaccines for all of their employees and others are planning to incentivize their employees to get the COVID-19 vaccine. No matter which direction you choose to go, it's important to understand the risks you may be facing as far as wage and hour issues, potential violation of the ADA or the Genetic Information Nondiscrimination Act (GINA) by coercing participation in wellness activities are some items that need to be taken into consideration.

If mandating the vaccine, make sure you are prepared to make reasonable accommodations for medical and religious reasons. If you decide to incentivize, make sure that the incentive doesn't violate EEOC guidelines and we recommend only items of minimal, or "de minimis," value, such as water bottles or gift cards of modest amounts.

WOTC Extended Through 2025

The Work Opportunity Tax Credit (WOTC) - an incentive for employers to broaden their job applicant pools and hire from certain groups of people who may need assistance finding jobs - has been reauthorized and extended through the end of 2025. The federal tax credit is available to employers that hire and retain individuals from 10 target groups that have been determined to have "significant barriers to employment," such as the long-term unemployed, people with criminal histories and military veterans. About \$1 billion in tax credits are claimed each year under the WOTC program, according to the Department of Labor (DOL).

Background

The WOTC was created in 1996. Three-quarters of the program's beneficiaries are Supplemental Nutrition Assistance Program (also known as food stamps) recipients, based on DOL data. Other eligible worker categories include:

- Unemployed or disabled military veterans.

- Long-term unemployed.
- Temporary Assistance for Needy Families (TANF) recipients.
- Residents living in designated economically struggling communities.
- People with disabilities who have completed or are completing vocational rehabilitation.
- People with criminal histories.
- Supplemental Security Income recipients.
- Teens from designated empowerment zones employed for summer work.

Both for-profit and nonprofit employers are eligible for WOTC, the difference comes down to how the credits are applied and the worker categories available. All categories are available for private-sector employers, and any earned credits are applied to their federal liability. Tax-exempt employers can access the program if they hire veterans and can use the credit against the employer's share of Social Security tax. Veteran credits are some of the higher-value credits, so it's a great opportunity for nonprofits.

The exact tax benefit amount that a business can receive depends on several factors, including the worker category, the employee's salary and the number of hours the employee worked in the first year.

How to Apply for WOTC, employers must:

1. Complete the **IRS Form 8850**, "Prescreening Notice and Certifications Requests for the Work Opportunity Tax Credits," by having the new qualified employee fill out page 1 prior to the date of the job offer and the employer complete page 2;
2. Complete one of the following one-page U.S. Department of Labor forms, as appropriate:
 - **IRS Form 9061**, "Individual Characteristics Form," or,
 - **IRS Form 9062**, "Conditional Certification Form," "if provided to the job seeker by a

participating agency, such as the Vocational Rehabilitation agencies or the SWA's

3. Mail the completed and signed IRS and ETA forms, as well as the supporting documentation; to the employer's state workforce agency (they must receive the original 8850 form). They must receive the 8850 and 9061 within 28 days of the start date (based on postmark date)— supporting documentation can be sent at a later date, however, it is important for the employer to collect necessary documentation from the individual at the time of hire.

In Delaware, the address is: **Department of Labor**, Division of Employment and Training, Work Opportunity Tax Credit (WOTC) Unit, 4425 North Market Street, 3rd Floor, Wilmington, DE 19802. Forms are available from the following website: <https://www.doleta.gov/business/incentives/opptax/how-to-file/>

In Pennsylvania you may submit applications electronically at www.cwds.pa.gov. Other surrounding states have different forms and requirements. We recommend visiting your state's Department of Labor's website for specific details.

Hiring Veterans

The following list provides reasons employers should consider hiring veterans. These are based on skills, characteristics, and traits outlined in a paper published by the Institute for Veterans and Military Families (IVMF), *The Business Case for Hiring a Veteran: Beyond the Clichés*. These examples are 10 empirically supported characteristics that veterans acquire as a result of their military service that contribute to their success as employees and how these might be assessed by hiring managers within an organization.

- Veterans are entrepreneurial
- Veterans assume high levels of trust
- Veterans are adept at skills transfer across contexts and task
- Veterans are comfortable and adept in discontinuous environments
- Veterans exhibit high levels of resilience
- Veterans have (and leverage) advanced technical training
- Veterans exhibit advanced team-building skills

- Veterans exhibit strong organizational commitment
- Veterans have (and leverage) cross-culture experiences
- Veterans have experience and skill in diverse work settings

The next time a veteran's resume crosses your desk, really look. Veterans are highly educated and often have transferable certifications and licenses, as well as "soft skills" that your organization values.

Time to Update Your AAP's

Many Affirmative Action Plans (AAPs) expired on December 31, 2020. Under federal law, government contractors and subcontractors with 50 or more employees who have entered into at least one contract of \$50,000 or more with the federal government must prepare and maintain a written affirmative action program, which must be developed within 120 days from the commencement of the contract and **must be updated annually**.

AAP's should be submitted to DOL by March 31, 2021.

Delaware Anti-Sexual Harassment Law Training Requirements

The Delaware law that specifically addresses prohibition against sexual harassment under the Delaware Discrimination in Employment Act (DDEA), requires anti-sexual harassment training requirements for employers, with 50 or more employees in the state, every two years. The law went into effect on January 1, 2019 and in January 2021 it will be time to conduct the mandatory interactive training again.

HR Strategies, LLC is available to present interactive training programs consistent with Delaware's training requirements. We can provide the training in-person or virtually. Contact HR Strategies to schedule your organization's required training or schedule individual employees for a live upcoming virtual interactive class.

Contact HR Strategies staff at 302.376.8595 or info@hrstrategies.org if you would like support or would like to learn more about the items in this newsletter. Please contact us if you would like to be removed from our Monthly Strategies mailing list or if you would like for us to add someone to our mailing list.