

Announcement 2000-58

The Internal Revenue Service announces today a settlement initiative under which taxpayers may resolve an issue under the Targeted Jobs Tax Credit (the "TJTC"), formerly section 51 of the Internal Revenue Code of 1986, as in effect prior to January 1, 1995 ("section 51"). The issue relates to whether a taxpayer may claim the TJTC with respect to an employee for whom it has not received a certification or denial from a designated local agency that the employee is a member of a targeted group.

The purpose of the settlement initiative is to relieve both taxpayers and the Service from the burdens associated with further development or litigation, and to permit a quick resolution of this issue. See Perdue Farms, Inc. v. United States of America, No. Y-97-3571 (D.C. MD June 14, 1999), and H.E. Butt Grocery Co. v. United States, No. SA-98-CA-336-EP (W.D. Tex. July 30, 1999; February 9, 2000).

The settlement initiative is available only to taxpayers who have timely claimed (or may timely claim) the TJTC and can satisfy all of the section 51 requirements, other than the certification requirement (Noncertified Employee Claims). If a timely claim is not currently pending (and the statute of limitations within which to make the claim is open), the taxpayer should submit its claim with the Indication of Interest described below. Under the settlement initiative, taxpayers may take a credit for 50% of the Verified Noncertified Employee Claims, as described below.

Steps to Follow to Participate in the Settlement Program for Taxpayers whose Claims are Pending with the Internal Revenue Service (including Appeals and Tax Court)

Step 1: An eligible taxpayer, whether or not currently under examination, before Appeals, or in Tax Court litigation, must first indicate in writing its interest in accepting the offer under this settlement initiative by mailing the following Indication of Interest to the address listed below:

Indication of Interest in TJTC Settlement Program

Taxpayer's Name: _____

Taxpayer's Address: _____

Taxable Years Involved: _____

Employer Identification Number _____
Amount of Claim: \$ _____ x 50% = Settlement: \$ _____

If Applicable:

Name, address and telephone number of I.R.S. employee responsible for claim year(s):

On behalf of the above-named taxpayer, I am interested in accepting the settlement offer described in Announcement 2000-58, 2000-30 I.R.B. (July 24, 2000), relating to the TJTC and Noncertified Employee Claims.

By _____ Date _____

Title _____

Mailing Address of Signatory _____

The taxpayer should mail the completed Indication of Interest to the following address no later than 120 days after this Announcement appears in the Internal Revenue Bulletin to:

Internal Revenue Service
Kansas City, Missouri 64999
Attention: QMSS, Stop 4100, Annex 2.

If the taxpayer is under examination or before Appeals or in litigation before the Tax Court for the taxable year(s) listed in the Indication of Interest, the taxpayer should also provide a copy of their Indication of Interest to the IRS employee who is responsible for the examination or other consideration of the year(s). (The taxpayer should also state the name, address and telephone number of the I.R.S. employee responsible for the year(s) of the claim on the Indication of Interest.)

Step 2: Upon receiving the Indication of Interest, the IRS will send to the taxpayer instructions on how to accept the settlement offer.

These instructions will direct taxpayers to assemble the information that will be used to determine the Verified Noncertified Employee Claims. In order to accept the settlement offer, the taxpayer will be required to provide, and certify under penalties of perjury, the following information regarding the Noncertified Employee Claims for each taxable year: (1) the name and social security number of each employee included in the claim; (2) the targeted group in which it claims the employee belongs (e.g. economically disadvantaged youth, etc.); (3) the employee's start date; (4) the employee's end date, if any; (5) the amount of eligible wages; (6) the amount of the credit claimed for that employee; and (7) that the employer timely submitted a request for certification. Timely filing means: (a) a written request submitted to the designated local agency on or before the day the individual began work, or (b) if the individual presented the employer with a written preliminary determination from the designated local agency that the individual was a member of a targeted group, a written request submitted to the designated local agency no later than five days after the individual began work. The Service may also require the taxpayer to provide additional information to confirm the accuracy of any information submitted. Once the Service has confirmed to its satisfaction the accuracy of the information, that the statutory requirements for minimum hours are met, and that there are not duplicate claims, it will determine the amount of Verified Noncertified Employee Claims subject to the 50% settlement offer.

Step 3: The taxpayer will execute a closing agreement (Form 906) to document the resolution of this issue and appropriate adjustment of related matters (e.g., section 280C).

Steps to Follow to Participate in the Settlement Program For Taxpayers whose Claims are under the Jurisdiction of the Department of Justice

The settlement initiative does not apply to cases in litigation before the United States district courts or the United States court of appeals. Settlements of those cases should be discussed with the U.S. Department of Justice attorneys handling them.

No taxpayer, including one currently under examination, in Appeals, or in Tax Court litigation, is required to accept the terms of the settlement initiative. If a taxpayer does not believe that the offer is appropriate for its case, the taxpayer may decline to participate in the settlement initiative, and the case will be handled under normal procedures. If participation is declined, the final result in a case could be either more or less favorable than the settlement offer, depending on the merits of the taxpayer's position.

For cases that are not resolved through the settlement initiative, the Service will continue to advance the legal argument that a taxpayer may not claim the TJTC with respect to an employee for whom it has not received a certification from a designated local agency that the employee is a member of a targeted group. The Service will also consider whether, as a factual matter, an employee is a member of a targeted group and the other statutory

requirements are met. In addition, the Service believes that the Work Opportunity Tax Credit (WOTC), section 51 of the Code as in effect after September 30, 1996, also requires that an employer receive a certification before it is entitled to this credit. Accordingly, the Service will rely on the certification process required by the WOTC before allowing this credit.

Please contact the Retail ISP Specialist at (763) 549-1020 x 328 (not a toll-free number) if there are any questions regarding the initiative. The settlement initiative is also described at the "Tax Professional's Corner" of the IRS Web site at <http://www.irs.ustreas.gov>.

The principal author of this announcement is Robert G. Wheeler. Mr. Wheeler can be reached at (202) 622-6060 (not a toll free number).