

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF FINANCIAL ASSISTANCE**

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**SEEDS MANAGEMENT MEMORANDUM**

**State Enterprise and Economic Development Section**

**Memorandum Number 8-01**

**Date: May 12, 2008**

**TO: Enterprise Zone Coordinators**

**From: Frank Luera, Chief  
State Enterprise and Economic Development Section**

**SUBJECT: Use of the W-4 Form for TEA Eligibility**

Effective immediately, employers applying for a hiring tax credit certificate or voucher may temporarily use an Employee's Withholding Allowance Certificate, Form W-4 ("W-4"), to verify that an employee resided in a Targeted Employment Area (TEA) immediately preceding the commencement of employment for purposes of eligibility for the TEA category. This change indicates the Department of Housing and Community's (Department) intention to permanently add the W-4, subject to regulatory approval, as an acceptable document for TEA eligibility. It also signals the Department's plan to delete the Form I-9, U.S. Department of Justice, Immigration and Naturalization Service, from the list of acceptable documents. The following sections describe these changes.

**Current Requirement for TEA Residency**

Section 8466 of the California Code of Regulations, Title 25, (CCR) defines the documentary requirements for the hiring tax credit. Among the eligible categories for the credit is the category of TEA residency. As defined by Section 7072(i) of the Government Code, a TEA represents an area within a city, county, or city and county that is composed solely of those census tracts that have at least 51 percent of its residents of low- or moderate-income levels. To obtain a credit under the TEA category, an employer must show that an employee resided in a TEA immediately preceding the commencement of employment. According to Section 8466(p) of the CCR, an employer may demonstrate that an employee is a resident of a TEA by providing one of the following documents:

1. Form I-9, U.S. Department of Justice, Immigration and Naturalization Service (I-9)
2. Driver's license or State Identification Card
3. Landlord statement
4. Lease or rental agreement
5. Utility bill

The common element in these documents is the verification of the employee's address. Although these documents have different purposes, all five identify the employee's residence, presumably immediately before the date of hire.

## **The Addition of the W-4 Form to the List of Acceptable Documents**

Prior to the establishment of Section 8466 on January 1, 2007, the enterprise zones accepted as a standard practice the W-4 as evidence of an employee's residence. Although the Department's initial proposal for Section 8466 included the W-4 as a form of acceptable documentation, it subsequently eliminated the W-4 from the final version of the regulation. At that time, the Department explained that the deletion reflected its reluctance to rely on unsubstantiated employee statements where more reliable, alternative documentation is available. Subsequently, the Department has determined that the W-4 provides at least the same, if not more accurate, information as provided by the I-9 due to several factors.

The primary purpose of the W-4 is to determine the correct amount of federal income tax an employer should withhold from an employee's pay check. Because employers must begin these withholdings with the first pay check, employees first complete the W-4 at the time of hire. To complete the form, employees must provide their name, address, social security number, and marital status. In addition, employees must designate the number of withholding allowances they are claiming for federal and state income tax purposes.

As indicated above, there are several factors that support the use of the W-4 to substantiate an employee's address. First, the Internal Revenue Service (IRS) requires employees to complete the form in its entirety with true and correct information. Moreover, the employees must sign the form under penalty of perjury and may be subject to penalties for providing fraudulent information. If the employee provides an invalid W-4 or fails to complete one, the IRS requires the employer to calculate the withholdings based on no allowances, which represents the highest rate of withholdings.

A second factor that supports the use of the W-4 is that employees are self-motivated to provide accurate information because it impacts their pay checks and their tax returns. As noted previously, the W-4 identifies the number of allowances claimed, which affects the amount of an employee's withholdings. In addition, employers enter the information from the W-4 into their payroll system. As a result, employers rely on the address listed on the W-4 to determine where to send the employees their pay checks and their Wage and Tax Statements (Form W-2), which employees must use to prepare their annual tax returns.

In summary, employees have significant motivation to provide accurate information on the W-4. The penalties for not providing correct and true information motivate the employees to prepare an accurate form. In addition, because employers use the information on the W-4's to prepare their payroll records, employees are motivated to provide a current address to ensure that they receive their pay checks and W-2's in a timely manner. Because of these factors, the Department has concluded that the W-4 represents a reliable source for verification of an employee's address at the time of hire and, therefore, may be used to substantiate eligibility for the TEA category.

### **Guidelines for the Implementation of the W-4**

Until further notice, enterprise zones may accept a copy of an employee's W-4 to support that employee's eligibility for the TEA category. In implementing this new directive, enterprise zones should verify that the W-4 contains the following information:

1. The employee's signature. According to the instructions provided on the form, the W-4 is not valid unless the employee signs it. Because the Department based its acceptance of the form in part on the penalty of perjury that it imposes, the signature represents

affirmation of its contents. Accordingly, the Department will not consider the W-4 acceptable unless the employee's signature is on the form.

2. The date is within 30 days of the date of hire. Eligibility for the TEA category requires that the employee resided in the TEA immediately preceding the commencement of employment. As defined by Section 8461 of the CCR, "immediately preceding" means within the previous 90 days. Because the intent of the W-4 is to show that the employee lived at the address during this time, it is critical that the date on the W-4 approximate the date of hire. Although the standard practice for most employers is to have employees complete the W-4 within the first few days of employment, the Department considers a 30-day period both before and after the start date a reasonable approximation of the date of hire. (One inherent limitation with the W-4 is that employees occasionally update or revise the form. In these instances, the W-4 may not represent the best source to document an employee's address at the time of hire.)

If the enterprise zone verifies the above information and determines that the employee's address as indicated on the W-4 is located in a TEA, it should approve the application and issue a voucher certificate.

### **Pending Changes for the TEA Category**

With the addition of the W-4 to the list of acceptable documents for the TEA category, the Department is indicating its intention to modify the list. As indicated above, Section 8466(p) of the CCR currently lists the Form I-9 as an acceptable document for the purposes of the TEA category. However, because of questions about the suitability of the Form I-9 as evidence of an individual's residential address, the Department intends to remove the form from the list. To do so, the Department will need to file for this change through the State's Office of Administrative Law. Although this process is relatively simple, the Department plans to postpone this action until it has added the W-4 to the regulation and, therefore, formally replaced the Form I-9 with a suitable alternative. In the interim, we encourage employers in anticipation of this change to reduce their reliance on the Form I-9 to support a TEA category. Admittedly, the Form I-9 will remain acceptable until the State formally removes it from the list of acceptable documents. However, because the Department has concluded that the other documents on the list are more appropriate for demonstrating residency, the Department would like to see employers use them in place of the Form I-9.

### **Contact Information**

If you need more information about the addition of the W-4 to the TEA eligibility requirements, please contact me at (916) 327-2862.