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Congress Expands Work Opportunity Tax Credit for Hiring Qualified Veterans

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6.0—Military Service and Tax Law

On November 21, 2001, President Obama signed into law the VOW To Hire Heroes Act of 2011, Public Law 112-56. Captain Marshall Hanson (ROA's Legislative Director), Keith Weller (ROA's Communications Director), and I (Director of ROA's Service Members Law Center) were honored to attend and observe.

Section 261 of this new act amends the Internal Revenue Code to: (1) increase the amount of wages eligible for the work opportunity tax credit for veterans who are hired after being unemployed for six months or more during the one-year period ending on the hiring date (\$14,000 of first-year wages) or disabled veterans who are either hired within one year after discharge from active duty (\$12,000 of first-year wages) or who are hired after being unemployed for six months or more during the one-year period ending on the hiring date (\$24,000 of first-year wages), and (2) allow tax-exempt organizations to claim the lesser of the

¹I invite the reader's attention to <https://www.roa.org/page/LawCenter>. You will find more than 2000 "Law Review" articles about the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Servicemembers Civil Relief Act (SCRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Uniformed Services Former Spouse Protection Act (USFSPA), and other laws that are especially pertinent to those who serve our country in uniform. You will also find a detailed Subject Index, to facilitate finding articles about specific topics. The Reserve Officers Association, now doing business as the Reserve Organization of America (ROA), initiated this column in 1997.

²BA 1973 Northwestern University, JD (law degree) 1976 University of Houston, LLM (advanced law degree) 1980 Georgetown University. I served in the Navy and Navy Reserve as a Judge Advocate General's Corps officer and retired in 2007. I am a life member of ROA. For 43 years, I have worked with volunteers around the country to reform absentee voting laws and procedures to facilitate the enfranchisement of the brave young men and women who serve our country in uniform. I have also dealt with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Veterans' Reemployment Rights Act (VRRA—the 1940 version of the federal reemployment statute) for 36 years. I developed the interest and expertise in this law during the decade (1982-92) that I worked for the United States Department of Labor (DOL) as an attorney. Together with one other DOL attorney (Susan M. Webman), I largely drafted the proposed VRRA rewrite that President George H.W. Bush presented to Congress, as his proposal, in February 1991. On 10/13/1994, President Bill Clinton signed into law USERRA, Public Law 103-353, 108 Stat. 3162. The version of USERRA that President Clinton signed in 1994 was 85% the same as the Webman-Wright draft. USERRA is codified in title 38 of the United States Code at sections 4301 through 4335 (38 U.S.C. 4301-35). I have also dealt with the VRRA and USERRA as a judge advocate in the Navy and Navy Reserve, as an attorney for the Department of Defense (DOD) organization called Employer Support of the Guard and Reserve (ESGR), as an attorney for the United States Office of Special Counsel (OSC), as an attorney in private practice, and as the Director of the Service Members Law Center (SMLC), as a full-time employee of ROA, for six years (2009-15). Please see Law Review 15052 (June 2015), concerning the accomplishments of the SMLC. My paid employment with ROA ended 5/31/2015, but I have continued the work of the SMLC as a volunteer. You can reach me by e-mail at SWright@roa.org.

amount of the work opportunity tax credit for hiring veterans or the amount of the payroll taxes paid by such organizations during the calendar year. Section 261 also extends through 2012 such credit with respect to such veterans and provides a credit against payroll taxes for qualified tax-exempt organizations employing such veterans.

On February 9, 2012, the Internal Revenue Service (IRS) put out an announcement about this new law and how to apply for these incentives. You can find the announcement at <https://www.irs.gov/pub/irs-drop/n-13-14.pdf>.

The VOW to Hire Heroes Act of 2011 made changes to the Work Opportunity Tax Credit (WOTC). The Act added two new categories to the existing qualified veteran targeted group and made the WOTC available to certain tax-exempt employers as a credit against the employer's share of social security tax. The Act allows employers to claim the WOTC for veterans certified as qualified veterans and who begin work before January 1, 2013.

The credit can be as high as \$9,600 per qualified veteran for a for-profit employer or up to \$6,240 for qualified tax-exempt organizations, but the amount of the credit will also depend on a number of factors, including the length of the veteran's unemployment before hire, the number of hours the veteran works, and the veteran's first-year wages. The amount of the credit for qualified tax-exempt organizations may not exceed the organization's employer social security tax for the period for which the credit is claimed.

ROA strongly supports any provision that will give employers an incentive to hire veterans and that will help address the scandalously high unemployment rate among veterans who have been released from active duty since the terrorist attacks of September 11, 2001.