

Name(s) shown on return

Identifying number

**Part I Current Year Credit**

**1** Enter on the applicable line below the qualified first- or second-year wages paid or incurred during the tax year and multiply by the percentage shown for services of employees who are certified as long-term family assistance recipients and who began work for you after December 31, 1997, and before July 1, 1999. Members of a controlled group, see instructions.

**a** Qualified first-year wages . . . . . \$ \_\_\_\_\_ × 35% (.35)  
**b** Qualified second-year wages . . . . . \$ \_\_\_\_\_ × 50% (.50)

**2** Current year credit. Add lines 1a and 1b. You must subtract this amount from your deduction for salaries and wages . . . . .

**3** Welfare-to-work credits from flow-through entities

|                                |  |
|--------------------------------|--|
| If you are a—                  | Then enter total of welfare-to-work credit(s) from—        |
| <b>a</b> Shareholder . . . . . | Schedule K-1 (Form 1120S), lines 12d, 12e, or 13 . . . . . |
| <b>b</b> Partner . . . . .     | Schedule K-1 (Form 1065), lines 12c, 12d, or 13 . . . . .  |
| <b>c</b> Beneficiary . . . . . | Schedule K-1 (Form 1041), line 14 . . . . .                |
| <b>d</b> Patron . . . . .      | Written statement from cooperative . . . . .               |

**4 Total current year welfare-to-work credit.** Add lines 2 and 3. (S corporations, partnerships, estates, trusts, cooperatives, regulated investment companies, and real estate investment trusts, see instructions.) . . . . .

**Part II Tax Liability Limit (See Who Must File Form 3800 to find out if you complete Part II or file Form 3800.)**

**5** Regular tax before credits:

- Individuals. Enter amount from Form 1040, line 40 . . . . .
- Corporations. Enter amount from Form 1120, Schedule J, line 3 (or Form 1120-A, Part I, line 1) . . . . .
- Other filers. Enter regular tax before credits from your return . . . . .

**6a** Credit for child and dependent care expenses (Form 2441, line 9) . . . . . **6a**  
**b** Credit for the elderly or the disabled (Schedule R (Form 1040), line 20) . . . . . **6b**  
**c** Child tax credit (Form 1040, line 43) . . . . . **6c**  
**d** Education credits (Form 8863, line 18) . . . . . **6d**  
**e** Mortgage interest credit (Form 8396, line 11) . . . . . **6e**  
**f** Adoption credit (Form 8839, line 14) . . . . . **6f**  
**g** District of Columbia first-time homebuyer credit (Form 8859, line 11) . . . . . **6g**  
**h** Foreign tax credit . . . . . **6h**  
**i** Possessions tax credit (Form 5735, line 17 or 27) . . . . . **6i**  
**j** Credit for fuel from a nonconventional source . . . . . **6j**  
**k** Qualified electric vehicle credit (Form 8834, line 19) . . . . . **6k**  
**l** Add lines 6a through 6k . . . . . **6l**

**7** Net regular tax. Subtract line 6l from line 5 . . . . . **7**

**8** Alternative minimum tax:

- Individuals. Enter amount from Form 6251, line 28 . . . . .
- Corporations. Enter amount from Form 4626, line 15 . . . . .
- Estates and trusts. Enter amount from Form 1041, Schedule I, line 39 . . . . .

**9** Net income tax. Add lines 7 and 8 . . . . . **9**

**10** Tentative minimum tax (see instructions):

- Individuals. Enter amount from Form 6251, line 26 . . . . .
- Corporations. Enter amount from Form 4626, line 13 . . . . .
- Estates and trusts. Enter amount from Form 1041, Schedule I, line 37. . . . .

**11** If line 7 is more than \$25,000, enter 25% (.25) of the excess (see instructions) . . . . . **11**

**12** Enter the greater of line 10 or line 11 . . . . . **12**

**13** Subtract line 12 from line 9. If zero or less, enter -0- . . . . . **13**

**14 Welfare-to-work credit allowed for current year.** Enter the **smaller** of line 4 or line 13 here and on Form 1040, line 47; Form 1120, Schedule J, line 4d; Form 1120-A, Part I, line 2a; Form 1041, Schedule G, line 2c; or the applicable line of your return . . . . . **14**

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

### A Change To Note

The Tax and Trade Relief Extension Act of 1998 extended the welfare-to-work credit for 2 months to cover individuals who begin work for the employer before July 1, 1999.

### Purpose of Form

Use Form 8861 to claim the welfare-to-work credit for wages you paid or incurred to long-term family assistance recipients during the tax year. Only wages paid or incurred to individuals who began working for you after December 31, 1997, and before July 1, 1999, can be used to figure the credit. The credit is 35 percent of qualified first-year wages and 50 percent of qualified second-year wages paid or incurred during the tax year.

You can claim or elect not to claim the welfare-to-work credit any time within 3 years from the due date of your return on either your original return or on an amended return.

### How To Claim the Credit

To claim the welfare-to-work credit, the employer must request and be issued a certification for each employee from the state employment security agency (SESA). The certification proves that the employee is a long-term family assistance recipient. The employer must receive the certification by the day the individual begins work, or must complete **Form 8850**, Pre-Screening Notice and Certification Request for the Work Opportunity and Welfare-to-Work Credits, by the day the employer offers the individual a job.

If the employer completes Form 8850, it must be signed by the individual and the employer and submitted to the SESA by the 21st day after the the individual begins work. If the SESA denies a certification request, it will provide a written explanation of the reason for denial. If a certification is revoked because it was based on false information provided by the worker, wages paid after the date the notice of revocation is received by the employer do not qualify for the credit.

An employee may be certified as a long-term family assistance recipient if he or she is a member of a family that:

- Has received assistance payments from Aid to Families with Dependent Children (AFDC) or its successor program, Temporary Assistance for Needy Families (TANF), for at least 18 consecutive months ending on the hiring date, or
- Receives assistance payments from AFDC or TANF for any 18 months (whether or not consecutive) beginning after August 5, 1997, or
- After August 5, 1997, stops being eligible for assistance payments because Federal or state law limits the maximum period such assistance is payable.

### Specific Instructions

**Note:** If you only have a credit allocated to you from a flow-through entity, skip lines 1 and 2 and go to line 3.

**Line 1.** Enter on the applicable line and multiply by the percentage shown the total qualified first-year or second-year wages paid or incurred to employees certified as long-term family assistance recipients and who began work for you after December 31, 1997, and before July 1, 1999.

Qualified first-year wages are qualified wages for work performed during the 1-year period beginning on the date the individual begins work for you. Qualified second-year wages are qualified wages for work performed during the

1-year period beginning on the day after the last day of the first-year wage period. The following rules apply in determining **qualified wages**:

- Only the first \$10,000 of wages paid or incurred during the tax year for each employee is taken into account.
- Wages qualifying for the credit generally have the same meaning as wages subject to the Federal Unemployment Tax Act (FUTA) (but without regard to any dollar limitation). For agricultural employees, if the work performed by any employee during more than half of any pay period qualifies under FUTA as agricultural labor, the first \$10,000 of that employee's wages subject to social security and Medicare taxes is taken into account. For a special rule that applies to railroad employees, see section 51A(b)(5)(C).
- Wages include amounts paid or incurred by the employer and excludable from the recipient's income as:
  1. Amounts received under accident and health plans (section 105).
  2. Employer contributions to accident and health plans (section 106).
  3. Educational assistance (section 127) if paid or incurred to a person not related to the employer.
  4. Dependent care benefits (section 129).

The amount treated as wages under section 105 or 106 must be based on the reasonable cost of coverage (but may not exceed the "applicable premium" under section 4980B(f)(4)).

- More than half the wages received from you must be for working in your trade or business.
- You may not claim a credit on wages that were paid to any employee during any period for which you received payment for the employee from a federally funded on-the-job training program.
- Any work supplementation payments you received under the Social Security Act reduce the amount of wages qualifying for the credit.
- The employee cannot be your relative or dependent. See section 51(i) for other restrictions.
- The employee cannot be your rehired employee if he or she was not a long-term family assistance recipient when employed earlier.
- The employee must have worked for you for at least 180 days or completed at least 400 hours of service.
- The wages cannot be for services of replacement workers during a strike or lockout.

**Special instructions for controlled group members.** The group member proportionately contributing the most first-year wages figures the group credit in Part I and skips Part II. See sections 52(a) and 1563. On separate Forms 8861, that member and every other member of the group should skip line 1 and enter its share of the group credit on line 2. Each member then completes lines 3, 4, and 5 through 14 (or Form 3800, if required) on its separate form. Each member must attach to its Form 8861 a schedule showing how the group credit was divided among all the members. The members share the credit in the same proportion that they contributed qualifying wages.

**Line 2.** In general, you must reduce your deduction for salaries and wages by the amount on line 2. This is required even if you cannot take the full credit this year and must carry part of it back or forward.

The exceptions to this rule are:

- You capitalized any salaries and wages on which you figured the credit. In this case, reduce your depreciable basis by the amount of the credit on those salaries and wages.

- You used the full absorption method of inventory costing that required you to reduce your basis in inventory for the credit.

If either of the above exceptions applies, attach a statement explaining why the line 2 amount differs from the amount by which you reduced your deduction.

**Line 3.** Enter the amount of credit that was allocated to you as a shareholder, partner, beneficiary, or patron of a cooperative.

**Line 4.** If you have a credit from a passive activity, stop here and go to Form 3800.

*S corporations and partnerships.* Prorate the credit on line 4 among the shareholders and partners. Attach Form 8861 to the return and on Schedule K-1 show the credit for each shareholder or partner. Electing large partnerships, include this credit in "general credits."

*Estates and trusts.* The credit on line 4 is allocated between the estate or trust and the beneficiaries in proportion to the income allocable to each. On the dotted line next to line 4, the estate or trust should enter its part of the total credit. Label it "1041 PORTION" and use this amount in Part II (or Form 3800, if required) to figure the credit to claim on Form 1041.

*Cooperatives.* Most tax-exempt organizations cannot take the credit; but a cooperative described in section 1381(a) takes the credit to the extent it has tax liability. Any excess is shared among its patrons.

*Regulated investment companies and real estate investment trusts.* Reduce the allowable credit to the company's or trust's ratable share of the credit. For details, see Regulations section 1.52-3(b).

### Who Must File Form 3800

Complete **Form 3800**, General Business Credit, instead of completing Part II of Form 8861, to figure the tax liability limitation if for this year you have:

- More than one of the credits included in the general business credit listed below,
- A carryback or carryforward of any of the credits,
- A credit from a passive activity, or
- General credits from an electing large partnership (Schedule K-1, (Form 1065-B)).

The general business credit consists of the following credits:

- Investment (Form 3468),
- Work opportunity (Form 5884),
- Welfare-to-work (Form 8861),
- Alcohol used as fuel (Form 6478),
- Research (Form 6765),
- Low-income housing (Form 8586),
- Enhanced oil recovery (Form 8830),
- Disabled access (Form 8826),
- Renewable electricity production (Form 8835),

- Indian employment (Form 8845),
- Employer social security and Medicare taxes paid on certain employee tips (Form 8846),
- Orphan drug (Form 8820),
- Contributions to selected community development corporations (Form 8847), and
- Trans-Alaska pipeline liability fund.

The empowerment zone employment credit (Form 8844), while a component of the general business credit, is figured separately on Form 8844 and is never carried to Form 3800.

**Line 10.** Although you may not owe alternative minimum tax (AMT), you generally must still compute the tentative minimum tax (TMT) to figure your credit. For a small corporation exempt from the AMT under section 55(e), enter zero. Otherwise, enter the TMT that was figured on the appropriate AMT form or schedule.

**Line 11.** See section 38(c)(3) for special rules that apply to married couples filing separate returns, controlled corporate groups, regulated investment companies, real estate investment trusts, and estates and trusts.

**Line 14.** If you cannot use part of the credit because of the tax liability limit (line 13 is smaller than line 4), carry it back 1 year, then forward 20 years. See the separate Instructions for Form 3800 for details.

**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

|  |                |
|--|----------------|
| <b>Recordkeeping</b> . . . . .                             | 7 hr., 39 min. |
| <b>Learning about the law or the form</b> . . . . .        | 1 hr., 5 min.  |
| <b>Preparing and sending the form to the IRS</b> . . . . . | 1 hr., 16 min. |

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.

