

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 began work for you before January 1, 2004, and are certified as long-term family assistance recipients. Members of a controlled group, see instructions.

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

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

**3** Welfare-to-work credits from pass-through entities:

If you are a—	Then enter the total of the credits 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** **Current year credit.** Add lines 2 and 3. (S corporations, partnerships, estates, trusts, cooperatives, regulated investment companies, and real estate investment trusts, see instructions.) . . . . .

**Part II Allowable Credit (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 the amount from Form 1040, line 41 . . . . .
- Corporations. Enter the amount from Form 1120, Schedule J, line 3; Form 1120-A, Part I, line 1; or the applicable line of your return . . . . .
- Estates and trusts. Enter the sum of the amounts from Form 1041, Schedule G, lines 1a and 1b, or the amount from the applicable line of your return . . . . .

**6** Alternative minimum tax:

- Individuals. Enter the amount from Form 6251, line 35 . . . . .
- Corporations. Enter the amount from Form 4626, line 14 . . . . .
- Estates and trusts. Enter the amount from Form 1041, Schedule I, line 56 . . . . .

**7** Add lines 5 and 6 . . . . .

**8a** Foreign tax credit . . . . .

- b** Credit for child and dependent care expenses (Form 2441, line 11) . . . . .
- c** Credit for the elderly or the disabled (Schedule R (Form 1040), line 24) . . . . .
- d** Education credits (Form 8863, line 18) . . . . .
- e** Credit for qualified retirement savings contributions (Form 8880, line 14) . . . . .
- f** Child tax credit (Form 1040, line 49) . . . . .
- g** Mortgage interest credit (Form 8396, line 11) . . . . .
- h** Adoption credit (Form 8839, line 18) . . . . .
- i** District of Columbia first-time homebuyer credit (Form 8859, line 11) . . . . .
- j** Possessions tax credit (Form 5735, line 17 or 27) . . . . .
- k** Credit for fuel from a nonconventional source . . . . .
- l** Qualified electric vehicle credit (Form 8834, line 20) . . . . .

**m** Add lines 8a through 8l. . . . .

**9** Net income tax. Subtract line 8m from line 7. If zero, skip lines 10 through 13 and enter -0- on line 14. . . . .

**10** Net regular tax. Subtract line 8m from line 5. If zero or less, enter -0- . . . . .

**11** Enter 25% (.25) of the excess, if any, of line 10 over \$25,000 (see instructions) . . . . .

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

- Individuals. Enter the amount from Form 6251, line 33 . . . . .
- Corporations. Enter the amount from Form 4626, line 12 . . . . .
- Estates and trusts. Enter the amount from Form 1041, Schedule I, line 54 . . . . .

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

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

**15** **Credit allowed for the current year.** Enter the **smaller** of line 4 or line 14 here and on Form 1040, line 52; Form 1120, Schedule J, line 6d; Form 1120-A, Part I, line 2a; Form 1041, Schedule G, line 2c; or the applicable line of your return. If line 14 is smaller than line 4, see instructions

	<b>1a</b>				
	<b>1b</b>				
	<b>2</b>				
	<b>3</b>				
	<b>4</b>				
	<b>5</b>				
	<b>6</b>				
	<b>7</b>				
	<b>8a</b>				
	<b>8b</b>				
	<b>8c</b>				
	<b>8d</b>				
	<b>8e</b>				
	<b>8f</b>				
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	<b>8j</b>				
	<b>8k</b>				
	<b>8l</b>				
	<b>8m</b>				
	<b>9</b>				
	<b>10</b>				
	<b>11</b>				
	<b>12</b>				
	<b>13</b>				
	<b>14</b>				
	<b>15</b>				

## General Instructions

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

### A Change To Note

The credit is not allowed with respect to wages for services of employees who began work for you after December 31, 2003.

**Caution:** At the time this form was issued, Congress was considering legislation that would also allow this credit with respect to employees who began work for you in 2004. See **Pub. 553, Highlights of 2003 Tax Changes**, to find out if this legislation was enacted.

### Purpose of Form

Use Form 8861 to claim the welfare-to-work credit for wages you paid to or incurred for long-term family assistance recipients during the tax year. The credit is 35% of qualified first-year wages and 50% 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, you 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. You must receive the certification by the day the individual begins work, or you must complete **Form 8850, Pre-Screening Notice and Certification Request for the Work Opportunity and Welfare-to-Work Credits**, on or before the day you offer the individual a job.

If you complete Form 8850, it must be signed by you and the individual and submitted to the SESA by the 21st calendar day after the individual begins work. If the SESA denies the 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 you receive the notice of revocation 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:

- Received assistance payments from Temporary Assistance for Needy Families (TANF) for at least 18 consecutive months ending on the hiring date,
- Received assistance payments from TANF for any 18 months (whether or not consecutive) beginning after August 5, 1997, and the employee is hired not more than 2 years after the end of the earliest 18-month period, or
- After August 5, 1997, stopped being eligible for assistance payments from TANF because Federal or state law limits the maximum period such assistance is payable, and the employee is hired not more than 2 years after the date the eligibility for such assistance ended.

#### Additional Information

See section 51A for more details.

## Specific Instructions

### Part I—Current Year Credit

**Note:** If you only have a credit allocated to you from a pass-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. Qualified first-year wages are qualified wages you paid or incurred for work performed during the 1-year period beginning on the date the certified individual begins work for you. Qualified second-year wages are qualified wages you paid or incurred for work performed during the 1-year period beginning on the day after the last day of the first-year wage period. The amount of qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account for any employee is limited to \$10,000 per year.

### Qualified Wages

Wages qualifying for the credit generally have the same meaning as wages subject to the Federal Unemployment Tax Act (FUTA). For agricultural employees, if the work performed by any employee during more than half of any pay period qualifies under FUTA as agricultural labor, that employee's wages subject to social security and Medicare taxes are qualified wages. For a special rule that applies to railroad employees, see section 51(h)(1)(B). Qualified wages for any employee must be reduced by the amount of any work supplementation payments you received under the Social Security Act for the employee.

Qualified wages also include the following amounts you paid or incurred for the employee that are excludable from the employee's gross income.

- Premiums and other amounts you paid or incurred under an accident and health plan excluded under section 105 or 106 (the amount must be based on the reasonable cost of coverage, but may not exceed the "applicable premium" under section 4980B(f)(4)).
  - Educational assistance excluded under section 127, if paid or incurred to a person not related to the employer.
  - Dependent care benefits excluded under section 129.
- The amount of qualified wages for any employee is zero if:
- The employee did not work for you for at least 400 hours or 180 days,
  - The employee worked for you previously,
  - The employee is your dependent,
  - The employee is related to you (see section 51(i)(1)), or
  - 50% or less of the wages the employee received from you were for working in your trade or business.

Qualified wages do **not** include:

- Wages for services of an employee who began work for you after December 31, 2003.
- Wages paid to any employee during any period for which you received payment for the employee from a federally funded on-the-job training program, and
- Wages for services of replacement workers during a strike or lockout at a plant or facility.

**Successor employer.** For successor employers, the 1-year period begins on the date the employee first began work for the previous employer and any qualified first-year wages paid by the successor employer are reduced by the qualified first-year wages paid by the previous employer. See section 51(k)(1) and Regulations section 1.51-1(h).

A **successor employer** is an employer that acquires substantially all of the property used in a trade or business (or a separate unit thereof) of another employer (the **previous employer**) and immediately after the acquisition the successor employs in his/her trade or business an individual who was employed immediately prior to the acquisition in the trade or business of the previous employer.

**Special instructions for controlled group members.** The group member proportionately contributing the greatest 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 15 (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 as follows.

- If you capitalized any salaries and wages on which you figured the credit, reduce the amount capitalized by the amount of the credit on those salaries and wages.
- You used the full absorption method of inventory costing which 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**

**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.** Allocate the credit on line 4 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).

**Part II—Allowable Credit**

The credit allowed for the current year may be limited based on your tax liability. Use Part II to figure the allowable credit unless you must file **Form 3800**, General Business Credit.

**Who must file Form 3800.** You must file Form 3800 if you have:

- A welfare-to-work credit from a passive activity,
- More than one credit included in the general business credit (other than a credit from Form 8844 or 8884), or
- A carryback or carryforward of any of those credits.

See the instructions for Form 3800 to find out which credits are included in the general business credit.

**Line 11**

See section 38(c)(4) 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 12**

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, complete **and** attach the applicable AMT form or schedule and enter the TMT on line 12.

**Line 15**

If you cannot use all of the credit because of the tax liability limit (line 14 is smaller than line 4), carry the unused credit back 1 year then forward up to 20 years. See the 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:

- Recordkeeping** . . . . . 8 hr., 22 min.
- Learning about the law or the form** . . . . . 1 hr., 35 min.
- Preparing and sending the form to the IRS** . . . . . 1 hr., 48 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.

