

Welfare-to-Work Credit

▶ **Attach to your tax return.**

Name(s) shown on return	Identifying number
<p>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 the date in the instructions, and are certified as long-term family assistance recipients.</p> <p>a Qualified first-year wages \$ _____ × 35% (.35)</p> <p>b Qualified second-year wages \$ _____ × 50% (.50)</p>	<p>1a</p> <p>1b</p>
2 Add lines 1a and 1b. See instructions for the adjustment you must make for salaries and wages	2
3 Welfare-to-work credit from partnerships, S corporations, cooperatives, estates, and trusts .	3
4 Add lines 2 and 3. Cooperatives, estates, and trusts, go to line 5; partnerships and S corporations, report this amount on Schedule K; all others, report this amount on the applicable line of Form 3800 (e.g., line 1c of the 2006 Form 3800)	4
5 Amount allocated to the patrons of the cooperative or the beneficiaries of the estate or trust (see instructions)	5
6 Cooperatives, estates, and trusts, subtract line 5 from line 4. Report the amount on the applicable line of Form 3800 (e.g., line 1c of the 2006 Form 3800)	6

General Instructions

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

What's New



The Tax Relief and Health Care Act of 2006 extended the welfare-to-work credit to cover employees who begin work for the employer before January 1, 2008. However, after December 31, 2006, the welfare-to-work credit will be unified with the work opportunity credit. Because of these changes, this form should not be used to calculate a credit for any employee hired after December 31, 2006. For 2007 and later, section 51 has been amended, and section 51A has been repealed. To calculate a credit for any employee hired after December 31, 2006, use Form 5884, Work Opportunity Credit. For more information on these changes, see Publication 553, Highlights of 2006 Tax Changes.

The tax liability limit is no longer figured on this form; instead, it must be figured on Form 3800, General Business Credit.

Taxpayers that are not partnerships, S corporations, cooperatives, estates, or trusts, and whose only source of this credit is from those pass-through entities, are not required to complete or file this form. Instead, they can report this credit directly on line 1c of Form 3800.

The IRS will revise this December 2006 version of the form only when necessary. Continue to use this version for tax years beginning after 2005 until a new revision is issued.

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.

Long-term family assistance recipient. An employee may be certified as a long-term family assistance recipient if the employee 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.

Member of controlled group or business under common control. For purposes of figuring the credit, all members of a controlled group of corporations (as defined in section 52(a)) and all members of a group of businesses under common control (as defined in section 52(b)), are treated as a single taxpayer. As a member, compute your credit based on your proportionate share of qualified wages giving rise to the

group's welfare-to-work credit. Enter your share of the credit on line 2. Attach a statement showing how your share of the credit was figured, and write "See attached" next to the entry space for line 2.

Additional Information

For more details, see Pub. 954, Tax Incentives for Distressed Communities, and section 51A.

Specific Instructions

Lines 1a and 1b

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 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.

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. If you capitalized any costs on which you figured the credit, reduce the amount capitalized by the credit attributable to these costs.

Line 3

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

Line 5

Cooperatives. A cooperative described in section 1381(a) must allocate to its patrons the credit in excess of its tax liability limit. Therefore, to figure the unused amount of the credit allocated to patrons, the cooperative must first figure its tax liability. While any excess is allocated to patrons, any credit recapture applies as if the cooperative had claimed the entire credit.

Estates and trusts. Allocate the welfare-to-work credit on line 4 between the estate or trust and the beneficiaries in the same proportion as income was allocated and enter the beneficiaries share on line 5.

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 burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is shown below.

Recordkeeping	2 hr., 37 min.
Learning about the law or the form	1 hr., 17 min.
Preparing and sending the form to the IRS	1 hr., 23 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.