

Credit for Employer Social Security and Medicare Taxes Paid on Certain Employee Tips

Department of the Treasury Internal Revenue Service

Attach to your return.

Attachment Sequence No. 98

Name(s) shown on return

Identifying number

Note: Claim this credit ONLY for social security and Medicare taxes paid by a food or beverage establishment where tipping is customary for providing food or beverages. See the instructions for line 1.

Part I Current Year Credit

Table with 6 rows for Current Year Credit. Line 1: Tips received by employees... Line 2: Tips not subject to the credit provisions... Line 3: Creditable tips. Subtract line 2 from line 1... Line 4: Current year credit... Line 5: Form 8846 credits from flow-through entities... Line 6: Total current year credit.

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

Table with 16 rows for Tax Liability Limit. Line 7: Regular tax before credits... Line 8a-8g: Various credits... Line 8h: Add lines 8a through 8g... Line 9: Net regular tax... Line 10: Alternative minimum tax... Line 11: Net income tax... Line 12: Tentative minimum tax... Line 13: If line 9 is more than \$25,000... Line 14: Enter the greater of line 12 or line 13... Line 15: Subtract line 14 from line 11... Line 16: Credit allowed for current year.

General Instructions

Section references are to the Internal Revenue Code.

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	6 hr., 28 min.
Learning about the law or the form	18 min.
Preparing and sending the form to the IRS	25 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. You can write to the IRS at the address listed in the instructions for the tax return with which this form is filed.

Changes To Note

Under the Small Business Job Protection Act of 1996, employee tips eligible for the credit include:

1. Tips for services performed before 1994 on which employer social security and Medicare taxes were paid or incurred after 1993.
2. Tips not reported to the employer but on which employer social security and Medicare taxes were paid or incurred after 1993 (e.g., because of an IRS examination of your employment tax returns).
3. Tips for services performed after 1996 in connection with providing food or beverages consumed off the premises (if tipping is customary) on which employer social security and Medicare taxes are paid or incurred.

Note: If for 1994 or 1995 you paid or incurred the employer taxes described in 1 or 2 above, file an amended return for the appropriate year to claim any credit resulting from these changes.

Purpose of Form

Certain food and beverage establishments (see **Who Should File** below) use Form 8846 to claim a credit for social security and Medicare taxes paid or incurred by the employer on certain employees' tips. The credit is part of the general business credit.

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

Who Should File

Employers who meet both of the following conditions should file Form 8846:

1. You had employees who received tips from customers for providing food or beverages for consumption on the premises of an establishment where tipping is customary. For services performed after 1996, the food or beverages are no longer required to be provided for consumption on the premises. Instead, your employees must have received tips from customers for providing, delivering, or serving food or beverages for consumption if tipping of employees for delivering or serving food or beverages is customary.

2. During the tax year, you paid or incurred employer social security and Medicare taxes on those tips.

How the Credit Is Figured

Generally, the credit equals the amount of employer social security and Medicare taxes paid or incurred by the employer on tips received by the employee. However, the employer social security and Medicare taxes on tips that are used to meet the Federal minimum wage rate applicable to the employee under the Fair Labor Standards Act are **not** used in the computation. The Federal minimum wage rate is \$4.25 per hour through September 30, 1996; \$4.75 per hour from October 1, 1996, through August 31, 1997; and \$5.15 per hour beginning September 1, 1997.

For example, an employee worked 100 hours and received \$350 in tips for October 1996. The worker received \$325 in wages (excluding tips) at the rate of \$3.25 an hour. Because the Federal minimum wage rate was \$4.75 an hour, the employee would have received wages, excluding tips, of \$475 had the employee been paid at the Federal minimum wage rate. Thus, only \$200 of the employee's tips for October 1996 is taken into account for credit purposes.

Specific Instructions

Figure the current year credit from your trade or business on lines 1 through 4. Skip lines 1 through 4 if you are claiming only a credit that was allocated to you from an S corporation or a partnership.

S Corporations and Partnerships

S corporations and partnerships figure their current year credit on lines 1 through 4, enter any credit from other flow-through entities on line 5, and allocate the credit on line 6 to the shareholders or partners. Attach Form 8846 to Form 1120S or 1065 and show on Schedule K-1 each shareholder's or partner's credit.

Line 1.—Enter the tips received by employees for services on which you paid or incurred employer social security and Medicare taxes during the tax year. For services performed before 1997, include only tips received from customers in connection with providing food or beverages for consumption on the premises of a food or beverage establishment where tipping is customary. For services performed after 1996, include tips received from customers for providing, delivering, or serving food or beverages for consumption if tipping of employees for delivering or serving food or beverages is customary.

Line 2.—If you pay each tipped employee wages (excluding tips) equal to or more than the Federal minimum wage rate, enter zero on line 2.

Figure the amount of tips included on line 1 that are not creditable for each employee on a monthly basis. This is the total amount that would be payable to the employee at the Federal minimum wage rate reduced by the wages (excluding tips)

actually paid to the employee during the month. Enter on line 2 the total amounts figured for all employees.

Line 4.—If any tipped employee's wages and tips exceeded the 1996 social security tax wage base of \$62,700 subject to the 6.2% (.062) rate, check the box on line 4 and attach a separate computation showing the amount of tips subject to only the Medicare tax rate of 1.45% (.0145). Subtract these tips from the line 3 tips, and multiply the difference by .0765. Then, multiply the tips subject only to the Medicare tax by .0145. Enter the sum of these amounts on line 4.

Reduce the income tax deduction for employer social security and Medicare taxes by the amount on line 4.

Who Must File Form 3800

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, or a credit from a passive activity, you must complete **Form 3800**, General Business Credit, instead of completing Part II of Form 8846 to figure the tax liability limitation.

The general business credit consists of the following credits:

- Investment (Form 3468),
- Work opportunity (Form 5884),
- 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 12.—Enter the tentative minimum tax (TMT) that was figured on the appropriate alternative minimum tax (AMT) form or schedule. Although you may not owe AMT, you must still compute the TMT to figure your credit.

Line 13.—See section 38(c)(3) for special rules that apply to married couples filing separate returns, controlled groups, regulated investment companies, real estate investment trusts, and estates and trusts.

Line 16.—If you cannot use part of the credit because of the tax liability limit (line 15 is smaller than line 6), carry the excess back 3 years, and then forward for 15 years. See the separate Instructions for Form 3800 for details.

