

Department of the Treasury Internal Revenue Service

Attach to your return.

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 consumed on the premises. See the instructions for line 1.

Part I Current Year Credit

Table with 6 rows for Part I. Line 1: Tips reported by employees... Line 2: Tips not subject to the credit provisions... Line 3: Creditable tips... 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 14 rows for Part II. Line 7a: Individuals... Line 7b: Corporations... Line 7c: Other filers... Lines 8a-8h: Various credits... Line 8i: Add lines 8a through 8h... Line 9: Net regular tax... Line 10: Tentative minimum tax... Line 11: Net income tax... Line 12: Excess tax... Line 13: Subtract line 10 or line 12... Line 14: Credit allowed for the current year.

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.

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

- Recordkeeping . . . . 6 hr., 13 min.
Learning about the law or the form . . . . 30 min.
Preparing and sending the form to the IRS . . . . 37 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.

General Instructions

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

## 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 under section 38 and is figured under the provisions of section 45B.

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 conditions below should file:

- During the tax year, paid or incurred employer social security and Medicare taxes on tips received by employees for services performed after December 31, 1993; and
- Have employees whose tips are received at food or beverage establishments for the provision of food or beverages consumed on the premises of the establishment.

Tips are deemed to be received by the employee when a written statement identifying the tips is furnished to the employer by the employee as required by section 6053(a). Normally, the employee must report to the employer tips received during any month no later than the 10th day of the following month. An employer may require that tips be reported more often than monthly.

For example, tips received by an employee during December 1995 and reported to an employer on December 30, 1995, are deemed to be paid in 1995. Tips received by an employee during December 1995 and reported to an employer on January 5, 1996, are deemed to be paid in 1996.

## 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 and reported to the employer by the employee. However, the employer social security and Medicare taxes on those 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 (since April 1, 1991) is \$4.25 per hour.

For example, an employee worked 100 hours and reported \$300 in tips for January. The worker received \$325 in wages (excluding tips) at the rate of \$3.25 an hour. Because the Federal minimum wage rate was \$4.25 an hour, the employee would have received

wages, excluding tips, of \$425 had the employee been paid at the Federal minimum wage rate. Thus, only \$200 of the employee's tips for January is taken into account for credit purposes.

## Specific Instructions

### Part I

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 the S corporation or partnership return and show on Schedule K-1 each shareholder's or partner's credit.

**Line 1.**—Enter the tips reported by employees for services on which you paid or incurred employer social security and Medicare taxes during the tax year.

**Do not include** tips for services performed prior to January 1, 1994 (e.g., tips for services performed before 1994 for which the related taxes are paid in the 1995 tax year).

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. **Do not include** tips for carryouts or tips to food deliverers such as pizza delivery persons.

**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 1995 social security tax wage base of \$61,200 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.

All taxpayers must reduce the income tax deduction for employer social security and Medicare taxes by the amount of the current year credit 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),
- Jobs (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),
- 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.

## Part II

**Line 10.**—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 12.**—See section 38(c)(3) for special rules for married couples filing separate returns, for controlled groups, and for estates and trusts.

**Line 14.**—If you cannot use part of the credit because of the tax liability limitation (line 13 is smaller than line 6), carry the excess back to any tax year that ended after August 9, 1993, and then forward for 15 years. No carryback is allowed to any year ending before August 10, 1993. See the separate instructions for Form 3800 for details.

