

2006 Form 5884, Work Opportunity Credit

Purpose: This is the first circulated draft of the 2006 Form 5884 for your review and comments. See the next page for a discussion of the major changes.

TPCC Meeting: None, but may be arranged if requested.

Prior Version: The 2005 Form 5884 is available at:
<http://www.irs.gov/pub/irs-pdf/f5884.pdf>

Other Products: Circulations of draft tax forms, instructions, notices, and publications are posted at:
http://taxforms.web.irs.gov/draft_products.html

Comments: Please email, call, or fax any comments by **June 5, 2006**.

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Memo for Description of Major Changes for Form 5884

Overall, the changes made to Form 5884, Work Opportunity Credit, have been made to support the redesign of Form 3800, General Business Credit.

We are changing this form from an annual use form to a continuous use form. Therefore, the revision date changes from a specific year (2006) to a month/date format (Rev. December 2006).

The form will no longer be separated into parts. Therefore, the designations "Part I" and "Part II" have been deleted. The text of lines 1 through 6 has been rewritten. Line 6 is now the last line on the form (lines 7 through 15 have been deleted). A cooperative, estate, or trust completes the form through line 6 and reports the amount from line 6 on line 1b of Form 3800. A partnership or S corporation completes the form through line 4 and reports that amount on Schedule K of their applicable return. All other filers complete the form through line 4 and report the amount from line 4 on line 1b of Form 3800.

In the instructions, we added a “What’s New” to encapsulate the changes. We made several changes to the instructions to revise or delete text that contained line references or specific instructions for lines deleted from the form.

Work Opportunity Credit

OMB No. 1545-0219

▶ Attach to your tax return.

Attachment
Sequence No. **77**

Name(s) shown on return

Identifying number

1	Enter on the applicable line below the total qualified first-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 applicable date in the instructions and are certified (if required) as members of a targeted group.		
a	Employees who worked for you at least 120 hours but fewer than 400 hours \$ _____ × 25% (.25)	1a	
b	Employees who worked for you at least 400 hours \$ _____ × 40% (.40)	1b	
2	Add lines 1a and 1b. See instructions for the adjustment you must make for salaries and wages	2	
3	Work opportunity 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 1b 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 1b of the 2006 Form 3800)	6	

General Instructions

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

What's New

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 1b 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.

Generally, the work opportunity credit has expired for wages paid to individuals who began working for you after 2005. An exception applies for certain employees that are Hurricane Katrina employees. See *Hurricane Katrina exception*, later, for more information.



At the time this form was going to print, Congress was considering legislation that would allow this credit with respect to other employees who began work for you in 2006.

Purpose of Form

Use Form 5884 to claim the work opportunity credit for qualified first-year wages you paid to or incurred for targeted group employees during the tax year. Your business does not have to be located in an empowerment zone, enterprise community, or renewal community to qualify for this credit.

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

How To Claim the Credit

Generally, 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 member of a targeted group. You must receive the certification by the day the individual begins work or 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.

Hurricane Katrina employee. The certification requirements described above do not apply to Hurricane Katrina employees. (See *Hurricane Katrina exception*, later, to determine who is considered a Hurricane Katrina employee.) Instead, the worker must show the employer reasonable evidence that the worker is a Hurricane Katrina employee. An employer may use Form 8850 to accept reasonable evidence that the worker is a Hurricane Katrina employee. If the employer discovers that the worker is not a Hurricane Katrina employee, wages paid after the date of discovery will not qualify for the credit.

Targeted group employee. An employee is a member of a targeted group if he or she is a:

- Hurricane Katrina employee,
- Qualified recipient of Temporary Assistance for Needy Families (TANF),
- Qualified veteran,
- Qualified ex-felon,
- High-risk youth,
- Vocational rehabilitation referral,
- Qualified summer youth employee,
- Qualified food stamp recipient, or
- Qualified SSI recipient.

However, if you use any wages of an employee to figure the welfare-to-work credit for any tax year, the employee is not treated as a member of a targeted group for that year.

See Form 8850 and section 51(d) for details and restrictions.

Qualified Wages

The credit is not allowed with respect to wages for services of employees who began work for you after December 31, 2005.

Hurricane Katrina exception. You can claim the credit after 2005 only for wages paid to Hurricane Katrina employees. To qualify, wages must be paid to a Hurricane Katrina employee who had a main home in the core disaster area on August 28, 2005, and, within a two-year period beginning on that date, was hired for a job whose principal place of employment is in the core disaster area.

Qualified first-year wages. Qualified first-year wages are wages you paid or incurred for work performed during the 1-year period beginning on the date the targeted group member begins work for you. The amount of qualified wages that may be taken into account for any employee is limited to \$6,000 (\$3,000 for a qualified summer youth employee). Wages qualifying for the credit generally have the same meaning as wages (excluding tips) subject to the Federal Unemployment Tax Act (FUTA). If the work performed by any employee during more than half of any pay period qualifies under FUTA as agricultural labor, the first \$6,000 of that employee's wages subject to social security and Medicare taxes qualify. 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.

The amount of qualified wages for any employee is zero if:

- The employee did not work for you for at least 120 hours,
- The employee worked for you previously, unless the employee is a Hurricane Katrina employee who was not in your employment on August 28, 2005, and this is your first hire of the employee after that date,
- The employee is your dependent,
- The employee is related to you (see section 51(i)(1)),
- 50% or less of the wages the employee received from you were for working in your trade or business, or
- You use any of the employee's wages to figure the welfare-to-work credit for the current year.

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;

- Wages paid or incurred to a high-risk or qualified summer youth employee for services performed while the employee lived outside an empowerment zone, enterprise community, or renewal community;
- Wages paid or incurred for services performed by a qualified summer youth employee before or after any 90-day period between May 1 and September 15; and
- Wages for services of replacement workers during a strike or lockout.

Specific Instructions

Lines 1a and 1b

Note. The "applicable date" is generally December 31, 2005 (see *Qualified Wages*, earlier). That is, the credit generally is not allowed with respect to wages for services of employees who began work for you after December 31, 2005. An exception applies for Hurricane Katrina employees (see *Hurricane Katrina exception*, earlier).

Enter on the applicable line the total qualified first-year wages paid to employees who are members of a targeted group. Multiply the wages you enter on each line by the percentage shown on that line.

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 most qualified first-year wages figures the group credit by completing line 1 through line 4 of the form. See sections 52(a) and 1563. On separate Forms 5884, that member and every other member of the group should skip lines 1a and 1b and enter its share of the group credit on line 2. Each member then completes a separate form. Each member must attach to its Form 5884 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. 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 work opportunity 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** 5 hr., 58 min.
- Learning about the law or the form** 1 hr., 12 min.
- Preparing and sending the form to the IRS** 1 hr., 20 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.