

Form 8881 (Rev. Dec. 2006)

Credit for Small Employer Pension Plan Startup Costs

- Purpose:** This is the first circulated draft of the Form 8881 (Rev. Dec. 2006) for your review and comments. Changes made to the form are explained on the attachment.
- TPCC meeting:** No meeting is planned, but you may request one by contacting John R. Nelson
- Prior Revisions** The 2005 Form 8881 is available at:
<http://www.irs.gov/pub/irs-pdf/f8881.pdf>
- Other products** Circulations of draft tax forms and instructions are posted at http://taxforms.web.irs.gov/draft_products.html.
Draft publications are not available.
- Comments** Please email, fax, or call, any comments by **May 26, 2006**.

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Major Changes for 2006

- We deleted Part II, relating to computation of the allowable credit from the form. Beginning in 2006, all taxpayers will be required to complete Form 3800, General Business Credit, to make this computation.
- Beginning in 2006, this form will become a continuous use form. That is, it will be revised only as needed instead of annually.
- We deleted the instructions for S corporations and partnerships. Taxpayers will need to go to the instructions for their appropriate form (i.e, Form 1120S or 1065) that they file for additional information.
- Instructions for “Controlled Groups” will be replaced with the following:

Member of Controlled Group, Business Under Common Control, or Affiliated Service Group.

For purposes of figuring the credit, all members of a controlled group of corporations (as defined in section 52(a)), all members of a group of businesses under common control (as defined in section 52(b)), and all members of an affiliated service groups (as defined in section 414(m)), are treated as a single employer. As a member, compute your credit based on your proportionate share of qualified startup costs giving rise to the group’s credit for small employer pension plan startup costs. 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.

Note: Please disregard the instructions for “Controlled Groups” in this 1st draft. The above language will appear in the final draft.

**Credit for Small Employer Pension Plan
 Startup Costs**

OMB No. 1545-1810

Attachment
 Sequence No. **130**

▶ Attach to your tax return.

Name(s) shown on return	Identifying number
1 Qualified startup costs incurred during the tax year. Do not enter more than \$1,000	1
2 Enter one-half of line 1	2
3 Credit for small employer pension plan startup costs from partnerships and S corporations	3
4 Add lines 2 and 3	4
5 Enter the smaller of line 4 or \$500 . 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 1m of the 2006 Form 3800)	5

General Instructions

Section references are to the Internal Revenue Code.

Purpose of Form

Eligible small employers use Form 8881 to claim the credit for qualified startup costs incurred in establishing or administering an eligible employer plan. The credit is allowed only for costs paid or incurred in tax years beginning after 2001 with respect to qualified employer plans first effective after 2001.

The credit is allowed under section 45E and is part of the general business credit. You may elect, however, to have section 45E not apply for your tax year beginning in 2006 by not filing Form 8881 with your 2006 tax return.

How To Figure the Credit

For an eligible small employer, the credit is 50% of the qualified startup costs paid or incurred during the tax year. The credit is limited to \$500 per year for the first credit year and each of the following 2 tax years. No credit is allowed for any other tax year.

Eligible small employer. To be an eligible small employer, you must have had no more than 100 employees during the tax year preceding the first credit year who received at least \$5,000 of compensation from you during that tax year. However, you are not an eligible small employer if, during the 3 tax years preceding the first credit year, you established or maintained a qualified employer plan with respect to which contributions were made, or benefits were accrued, for substantially the same employees as are in the new qualified employer plan. See section 45E(c) for rules for controlled groups and predecessor employers.

Qualified startup costs. Qualified startup costs are expenses paid or incurred in connection with (a) establishing or administering an eligible employer plan or (b) the retirement-related education of employees about the plan.

Eligible employer plan. An eligible employer plan is a qualified employer plan (as defined in section 4972(d)) with at least one employee eligible to participate who is not a highly compensated employee. All eligible employer plans of the same employer are treated as one eligible employer plan.

First credit year. The first credit year generally is your tax year that includes the date that the eligible employer plan becomes effective. However, you may elect to have the preceding tax year be the first credit year, and claim the credit for qualified startup costs paid or incurred during that tax year. For example, a calendar-year eligible small employer whose eligible plan is first effective on January 1, 2007, may elect to treat 2006 as the first credit year and claim the credit on its 2006 tax return for qualified startup costs incurred in 2006.

No Deduction Allowed for Credit Amount

You must reduce your otherwise allowable deduction for startup costs by the credit amount on line 2.

Controlled Groups

All persons treated as a single employer under section 52(a), 52(b), 414(m), or 414(o) are treated as one person for purposes of the credit. If the group qualifies as an eligible small employer, the group member with the greatest startup costs figures the group credit on lines 1 and 2 and skips the rest of the form. On separate Forms 8881, each member skips line 1 and enters its share of the group credit on line 2. Each member then completes the remaining applicable lines on its separate Form 8881 (and Form 3800, if required). Each member must also attach a statement showing how the group credit was divided among all members. The members share the credit in the same proportion as they contributed qualified startup costs.

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 or S corporations, 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 1m 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.

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** 53 min.
- Preparing and sending the form to the IRS** 1 hr., 1 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.