

## **2007 Form 5884, Work Opportunity Credit**

**Purpose:** This is the first circulated draft of the 2007 Form 5884, Work Opportunity Credit, for your review and comments. The major changes are listed below.

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

**Prior Version:** The prior version of 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](http://taxforms.web.irs.gov/draft_products.html)

**Comments:** Please email, fax, call, or mail any comments to me and email the reviewer, William Woolf, Jr. @ [William.P.Woolf@irs.gov](mailto:William.P.Woolf@irs.gov) by August 28, 2007.

Mike Cyrus

Tax Forms and Publications

SE:W:CAR:MP:T:B:C

Email: [Michael.R.Cyrus@irs.gov](mailto:Michael.R.Cyrus@irs.gov)

Ph: 202.927.9545

Fax: 202.622.3262

## 2007 Form 5884 Major Changes

### On the Form-

1] The form is no longer continuous-use because various law changes mean that it is better served by the annual format, especially with regard to the instructions (e.g., the line 22 carryback instructions).

2] A **Part I** heading is added because a **Part II** has been added to the form. The **Part II** is added because the credit is no longer subject to the alternative minimum tax, necessitating its removal from Form 3800. PL 110-28 sec. 8214; IRC 38(c)(4)(iv)

3] Line 1 is rewritten to remove the text "began work for you before the applicable date in the instructions and" because the credit is extended into 2011, a date not indicated in the instructions. PL 110-28 sec. 8211; IRC 51(c)(4)(B)

It is also rewritten to make the form functional for an employer with a fiscal year ending in 2008 that would have paid qualified 2nd year wages in the part of such year which fell in 2008. PL 109-432 sec. 105(e)(2); IRC 51(e)(2)

Therefore:

- Lines **1a and b** are rewritten to add the text "Qualified first-year wages of" to conform to the language of Form 8861.
- Line **1c** is added to account for the second-year wages and the 50% reduction. PL 109-432 sec. 105(e)(2); IRC 51(e)(2)

4] **Line 4** is rewritten to remove cooperatives, estates, and trusts because of the addition of **Lines 5-9**.

**5] Lines 5-9** are necessary because of the addition of **Part II**. These lines are to account for passive activities, carryforwards, and carrybacks applicable to cooperatives, estates, trusts, and other entities. This is because with this credit, cooperatives, estates, and trusts can elect to allocate a portion to patrons or beneficiaries. PL 110-28 sec. 8214; IRC 38(c)(4)(iv)

Adding these new lines means old lines 5 and 6 are now new **Lines 10 and 11**.

6] The year is updated in the usual places.

### In the Instructions-

1] The **What's New** area is rewritten to indicate:

- sec. 8211 of PL 110-28 (first 3 bullets: credit extended, vet group expanded, designated community residents) and

- sec. 105(e)(2) of PL 109-432; IRC 51(d)(10) (last bullet: long-term family assistance recipients).

2] Under **Targeted group employee**:

- A bullet is added for long-term family assistance recipients. PL 109-432 sec. 105(e)(2); IRC 51(d)(10))
- The high-risk youth targeted group is renamed “Designated community resident.” PL 110-28 sec.8211(b); IRC 51(d)(5)
- Conforming with the Form 8850, the text “qualified” is removed from the last 3 targeted group bullets - summer youth employee, food stamp recipient, and SSI recipient.

3] The **Qualified Wages** area is rewritten as follows:

- The text “first-year” is replaced by “first- or second-year”, to include possible 2<sup>nd</sup> year wages paid to long-term family assistance recipients.
- The text “the first \$6,000 of” is removed from the agricultural labor discussion to conform to the language in the Form 8861 instructions.

4] The heading **Members of a controlled group or businesses under common control** is made a head 2.

5] **Part I** and **Part II** headings and instructions are added because a **Part II** has been added to the form.

6] Instructions for **Lines 1a and b** are expanded and combined with new **Line 1c** instructions to indicate the following:

- 1<sup>st</sup> or 2<sup>nd</sup> year wages and the new long-term family assistance recipients group. PL 109-432 sec. 105(e)(2); IRC sec. 51(e)(2))
- The new disabled veterans group, including the greater maximum wages for such vets, \$12,000. IRC 51(b)(3)(A)
- The new summer youth group. PL 110-28 sec. 8211; IRC 51(d)(5);

7] New **Lines 5, 7, and 8** instructions are added.

8] Old line 5 instructions are renumbered as **Line 10** instructions.

9] The year is updated in the usual places.



Department of the Treasury  
Internal Revenue Service

▶ **Attach to your tax return.**

Name(s) shown on return

Identifying number

**Part I Current Year Credit**

<b>1</b>	Enter on the applicable line below the total qualified first- or second-year wages paid or incurred during the tax year, and multiply by the percentage shown, for services of employees who are certified (if required) as members of a targeted group.		
<b>a</b>	Qualified first-year wages of employees who worked for you at least 120 hours but fewer than 400 hours . . . . . \$ . . . . . × 25% (.25)	<b>1a</b>	
<b>b</b>	Qualified first-year wages of employees who worked for you at least 400 hours . . . . . \$ . . . . . × 40% (.40)	<b>1b</b>	
<b>c</b>	Qualified second-year wages of employees certified as long-term family assistance recipients . . . . . \$ . . . . . × 50% (.50)	<b>1c</b>	
<b>2</b>	Add lines 1a, 1b, and 1c. See instructions for the adjustment you must make for salaries and wages.	<b>2</b>	
<b>3</b>	Work opportunity credit from partnerships, S corporations, cooperatives, estates, and trusts.	<b>3</b>	
<b>4</b>	Add lines 2 and 3. Partnerships and S corporations, report this amount on Schedule K; all others, go to line 5 . . . . .	<b>4</b>	
<b>5</b>	Work opportunity credit included on line 4 from passive activities (see instructions) . . . . .	<b>5</b>	
<b>6</b>	Subtract line 5 from line 4 . . . . .	<b>6</b>	
<b>7</b>	Work opportunity credit allowed for 2007 from a passive activity (see instructions) . . . . .	<b>7</b>	
<b>8</b>	Carryforward from 2006 of the New York Liberty Zone business employee credit and carryback from 2008 of the work opportunity credit (see instructions) . . . . .	<b>8</b>	
<b>9</b>	Add lines 6 through 8. Cooperatives, estates, and trusts, continue on to line 10. All others, use this amount to complete Part II . . . . .	<b>9</b>	
<b>10</b>	Amount allocated to patrons of the cooperative or beneficiaries of the estate or trust (see instructions) . . . . .	<b>10</b>	
<b>11</b>	Cooperatives, estates, and trusts, subtract line 10 from line 9. Use this amount to complete Part II . . . . .	<b>11</b>	

**Part II Allowable Credit**

<b>12</b>	Regular tax before credits (see instructions) . . . . .	<b>12</b>	
<b>13</b>	Alternative minimum tax (see instructions) . . . . .	<b>13</b>	
<b>14</b>	Add lines 12 and 13 . . . . .	<b>14</b>	
<b>15a</b>	Credits from Form 1040, lines 47 through 50 and 52 through 54 (or Form 1040NR, lines 44, 45, and 47 through 49) . . . . .	<b>15a</b>	
<b>b</b>	Foreign tax credit . . . . .	<b>15b</b>	
<b>c</b>	Credits from Forms 5735 and 8834 . . . . .	<b>15c</b>	
<b>d</b>	Non-business alternative motor vehicle credit (Form 8910, line 18) . . . . .	<b>15d</b>	
<b>e</b>	Non-business alternative fuel vehicle refueling property credit (Form 8911, line 19) . . . . .	<b>15e</b>	
<b>f</b>	Add lines 15a through 15e . . . . .	<b>15f</b>	
<b>16</b>	Net income tax. Subtract line 15f from line 14. If zero, skip lines 17 through 20 and enter -0- on line 21	<b>16</b>	
<b>17</b>	Net regular tax. Subtract line 15f from line 12. If zero or less, enter -0-	<b>17</b>	
<b>18</b>	Enter 25% (.25) of the excess, if any, of line 17 over \$25,000 (see instructions) . . . . .	<b>18</b>	
<b>19</b>	Subtract line 18 from line 16. If zero or less, enter -0-	<b>19</b>	
<b>20a</b>	General business credit (Form 3800, line 19) . . . . .	<b>20a</b>	
<b>b</b>	Empowerment zone and renewal community employment credit (Form 8844, line 26) . . . . .	<b>20b</b>	
<b>c</b>	Add lines 20a and 20b . . . . .	<b>20c</b>	
<b>21</b>	Subtract line 20c from line 19. If zero or less, enter -0-	<b>21</b>	
<b>22</b>	<b>Credit allowed for the current year. Cooperatives, estates, and trusts.</b> Enter the smaller of line 11 or 21. Report this amount on Form 1120-C, Schedule J, line 5c; or Form 1041, Schedule G, line 2c. If line 21 is smaller than line 11, see instructions. <b>All others.</b> Enter the smaller of line 9 or 21. Report this amount on Form 1040, line 55; Form 1040NR, line 50; Form 1120, Schedule J, line 5c; or the applicable line of your return. If line 21 is smaller than line 9, see instructions . . . . .	<b>22</b>	

## General Instructions

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

### What's New

The Small Business and Work Opportunity Tax Act of 2007 made the following changes.

- The work opportunity credit is extended to cover individuals who begin work for you before September 1, 2011.
- For individuals who begin work for you after May 25, 2007, the qualified veterans group is expanded to include veterans entitled to compensation for a service-connected disability and who, during the one-year period ending on the hiring date, were (a) discharged or released from active duty in the U.S. Armed Forces or (b) unemployed for a period or periods totaling at least 6 months. The first-year wages taken into account for these disabled veterans is \$12,000.
- For individuals who began work for you after May 25, 2007, the high-risk youth group is renamed "designated community residents" and expanded to include individuals who are at least age 18 but not yet age 40. In addition, residents of rural renewal counties are added to this group.
- Line 1c is added to the form for qualified second-year wages of employees certified as long-term family assistance recipients hired after December 31, 2006.

### Purpose of Form

Use Form 5884 to claim the work opportunity credit for qualified first- or second-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, renewal community, or rural renewal county 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 Credit, 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 28th 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 or incurred after the date you receive the notice of revocation do not qualify for the credit.

**Hurricane Katrina employee.** A Hurricane Katrina employee is an 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. The certification requirements described above do not apply to Hurricane Katrina employees. 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 or incurred 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,
- Long-term family assistance recipient hired after December 31, 2006 (if hired before January 1, 2007, see Form 8861, Welfare-to-Work Credit).
- Qualified recipient of Temporary Assistance for Needy Families (TANF),
- Qualified veteran,
- Qualified ex-felon,
- Designated community resident,
- Vocational rehabilitation referral,
- Summer youth employee,
- Food stamp recipient, or
- SSI recipient.

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

### Qualified Wages

Wages qualifying for the credit generally have the same meaning as wages 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, 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.

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)), 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 or incurred for any employee during any period for which you received payment for the employee from a federally funded on-the-job training program;
- Wages paid to or incurred for a summer youth employee for services performed while the employee lived outside an empowerment zone or renewal community;
- Wages paid to or incurred for a designated community resident for services performed while the employee lived outside an empowerment zone, renewal community, or rural renewal county;
- Wages paid to or incurred for services performed by a 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.

### 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 work

opportunity credit. Enter your share of the credit on line 2. Attach a statement showing how your share of the credit was figured, and enter "See attached" next to the entry space for line 2.

## Specific Instructions

### Part I. Current Year Credit

#### Lines 1a, 1b, and 1c

Enter on the applicable line and multiply by the percentage shown the total qualified first- or second-year wages paid to or incurred for employees who are members of a targeted group. Qualified first-year wages are qualified wages you paid or incurred for work performed during the 1-year period beginning on the date the individual begins work for you. Qualified second-year wages are qualified wages you paid or incurred to certified long-term family assistance recipients for work performed during the 1-year period beginning on the day after the last day of the 1-year wage period.

The amount of qualified first-year wages and the amount of qualified second-year wages that may be taken into account for any employee certified as a long-term family assistance recipient is limited to \$10,000 per year. The amount of qualified first-year wages that may be taken into account for any employee certified as a qualified veteran entitled to compensation for a service-connected disability and who, during the 1-year period ending on the hiring date, was either (a) discharged or released from active duty in the U.S. Armed Forces, or (b) unemployed for a period or periods totaling at least 6 months, is limited to \$12,000. The amount of qualified first-year wages that may be taken into account for any employee certified as a summer youth employee is limited to \$3,000. The amount of qualified first-year wages that may be taken into account for an employee certified (if required) as a member of any other targeted group is \$6,000.

**Successor employer.** For successor employers, the 1- or 2-year period begins on the date the employee began work for the previous employer and any qualified first- or second-year wages paid or incurred by the successor employer are reduced by the qualified first or second-year wages paid or incurred 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 or 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

Enter the amount included on line 4 that is from a passive activity. Generally, a passive activity is a trade or business in which you did not materially participate. Rental activities are generally considered passive activities, whether or not you materially participate. For details, see Form 8582-CR, Passive

Activity Credit Limitations (for individuals, estates, and trusts), or Form 8810, Corporate Passive Activity Losses and Credit Limitations (for corporations).

#### Line 7

Enter the passive activity work opportunity credit allowed for 2007 from Form 8582-CR or Form 8810.

#### Line 8

Use line 8 to show any carryforward from 2006 of the New York Liberty Zone business employee credit or any carryback if you amend your 2007 return to carry back an unused work opportunity credit from 2008. Report any carryforward from 2006 of the work opportunity credit on the Form 3800 carryforward line.

#### Line 10

**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 9 between the estate or trust and the beneficiaries in the same proportion as income was allocated and enter the beneficiaries share on line 10.

### Part II. Allowable Credit

The credit allowed for the current year may be limited based on your tax liability. Use Part II to figure the allowable credit.

#### Line 12

Enter the regular tax before credits from the following line of the appropriate form or schedule.

- Individuals: Form 1040, line 44; Form 1040NR, line 41.
- Corporations: Form 1120, Schedule J, line 2; or the applicable line of your return.
- Estates and trusts: The sum of the amounts from Form 1041, Schedule G, lines 1a and 1b; or the amount from the applicable line of your return.

#### Line 13

Enter the alternative minimum tax (AMT) from the following line of the appropriate form or schedule.

- Individuals: Form 6251, line 35.
- Corporations: Form 4626, line 14.
- Estates and trusts: Form 1041, Schedule I, line 56.

#### Line 18

See section 38(c)(5) for special rules that apply to married couples filing separate returns, controlled corporate groups, regulated investment companies, real estate investment trusts, and estates and trusts.

#### Line 22

If you cannot use all of the credit because of the tax liability limit, carry the unused credit back 1 year then forward up to 20 years. When carrying back the credit from 2007 to 2006, use the 2006 Form 6478, Credit for Alcohol Used as Fuel, line 10, and enter "W" to the left of the entry space.

**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.

<b>Recordkeeping</b> . . . . .	X hr., XX min.
<b>Learning about the law or the form</b> . . . . .	XX min.
<b>Preparing and sending the form to the IRS</b> . . . . .	XX 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.

Draft 05 of 08/09/2007