

**2007 Form 8846, Credit for Employer Social Security
and Medicare Taxes Paid on Certain Employee Tips**

Purpose: This is the third circulated draft of the 2007 form 8846 for your review and comments. The major changes listed below are only the changes made since the second circulated draft.

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

First Circulation: The first circulated draft of the 2007 Form 8846 is available at:
http://taxforms.web.irs.gov/Products/Drafts/2007-2/07f8846_d1.pdf

Second Circulation: The second circulated draft of the 2007 Form 8846 is available at: http://taxforms.web.irs.gov/Products/Drafts/2007-2/07f8846_d2.pdf.

Prior Version: The 2006 Form 8846 is available at:
<http://www.irs.gov/pub/irs-pdf/f8846.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, fax, call, or mail any comments by **September 12, 2007**, to me at the address below and email the form's reviewer, Sharon Dewsbury, at Sharon.A.Dewsbury@irs.gov.

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Major changes to the 2007 Form 8846

Instructions for Form 8846

Lines 10 and 22, we added filing instructions based on P.L. 110-28, sec. 8214.

Department of the Treasury
Internal Revenue Service

▶ Attach to your tax 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. See the instructions for line 1.

Part I Current Year Credit

1	Tips received by employees for services on which you paid or incurred employer social security and Medicare taxes during the tax year (see instructions)		1	
2	Tips not subject to the credit provisions (see instructions)		2	
3	Creditable tips. Subtract line 2 from line 1		3	
4	Multiply line 3 by 7.65% (.0765). If you had any tipped employees whose wages (including tips) exceeded \$97,500, see instructions and check here <input type="checkbox"/>		4	
5	Credit for employer social security and Medicare taxes paid on certain employee tips from partnerships and S corporations		5	
6	Add lines 4 and 5. Partnerships and S corporations, report this amount on Schedule K; all others, go to line 7		6	
7	Credit for employer social security and Medicare taxes paid on certain employee tips included on line 6 from passive activities (see instructions)		7	
8	Subtract line 7 from line 6		8	
9	Credit for employer social security and Medicare taxes paid on certain employee tips allowed for 2007 from passive activities (see instructions)		9	
10	Carryback of the credit for employer social security and Medicare taxes paid on certain employee tips from 2008 (see instructions)		10	
11	Add lines 8 through 10. Use this amount to complete Part II		11	

Part II Allowable Credit

12	Regular tax before credits (see instructions)		12	
13	Alternative minimum tax (see instructions)		13	
14	Add lines 12 and 13		14	
15a	Credits from Form 1040, lines 47 through 50 and 52 through 54 (or Form 1040NR, lines 44, 45, and 47 through 49)	15a		
b	Foreign tax credit	15b		
c	Credits from Forms 5735 and 8834	15c		
d	Non-business alternative motor vehicle credit (Form 8910, line 18)	15d		
e	Non-business alternative fuel vehicle refueling property credit (Form 8911, line 19)	15e		
f	Add lines 15a through 15e		15f	
16	Net income tax. Subtract line 15f from line 14. If zero, skip lines 17 through 20 and enter -0- on line 21		16	
17	Net regular tax. Subtract line 15f from line 12. If zero or less, enter -0-		17	
18	Enter 25% (.25) of the excess, if any, of line 17 over \$25,000 (see instructions)		18	
19	Subtract line 18 from line 16. If zero or less, enter -0-		19	
20a	General business credit (Form 3800, line 19)	20a		
b	Empowerment zone and renewal community employment credit (Form 8844, line 26)	20b		
c	Work opportunity credit (Form 5884, line 22)	20c		
d	Alcohol fuels credit (Form 6478, line 24)	20d		
e	Renewable electricity, refined coal, and Indian coal production credit (Form 8835, line 43)	20e		
f	Add lines 20a through 20e		20f	
21	Subtract line 20f from line 19. If zero or less, enter -0-		21	
22	Credit allowed for the current year. Enter the smaller of line 11 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 11, see instructions		22	

General Instructions

Section references are to the Internal Revenue Code.

What's New

For tax years beginning in 2007, there is no longer an alternative minimum tax limitation with respect to this credit. Taxpayers must complete Part II of the form to compute the allowable credit.

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

File Form 8846 if you meet both of the following conditions.

1. You had employees who 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 amount of tips for any month that are used to figure the credit must be reduced by the amount by which the wages that would have been payable during that month at \$5.15 an hour exceed the wages (excluding tips) paid by the employer during that month.

For example, an employee worked 100 hours and received \$450 in tips for October 2007. The worker received \$375 in wages (excluding tips) at the rate of \$3.75 an hour. If the employee had been paid \$5.15 an hour, the employee would have received wages, excluding tips, of

\$515. For credit purposes, the \$450 in tips is reduced by \$140 (the difference between \$515 and \$375), and only \$310 of the employee's tips for October 2007 is taken into account.

Specific Instructions

Part I. Current Year Credit

Figure the current year credit from your trade or business on lines 1 through 4.

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.

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 \$5.15 an hour 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 \$5.15 an hour 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 2007 social security tax wage base of \$97,500 subject to the 6.2% 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%. 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.

Line 7

Enter the amount included on line 6 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, trusts, and estates), or Form 8810, Corporate Passive Activity Loss and Credit Limitations (for corporations).

Line 9

Enter the passive activity credit allowed for the 2007 credit for employer social security and Medicare taxes paid on certain employee tips from Form 8582-CR or Form 8810.

Line 10

Use line 10 to show any carryback if you amend your 2007 return to carry back an unused credit from 2008.

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.

Note. Report any carryforward from 2006 of the credit for employer social security and Medicare taxes paid on certain employee tips on the Form 3800 carryforward line.

When carrying back the credit from 2007 to 2006, use the 2006 Form 6478, Credit for Alcohol Used as Fuel, line 10, and enter "T" to the left of the entry space.

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.

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** 2 hr., 9 min.
- Learning about the law or the form** 18 min.
- Preparing and sending the form to the IRS** 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.