

Credit for Employer Differential Wage Payments

▶ Attach to your tax return

Attachment
Sequence No. **161**

Name(s) shown on return	Identifying number
1 Eligible differential wage payments paid during the tax year (see instructions)	1
2 Multiply line 1 by 20% (.20) (see instructions for the adjustment you must make)	2
3 Credit for employer differential wage payments 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 this amount on Form 3800, line 1w	4
5 Amount allocated to patrons of the cooperative or beneficiaries of the estate or trust (see instructions)	5
6 Cooperative, estates, and trusts. Subtract line 5 from line 4. Report this amount on Form 3800, line 1w	6

General Instructions

Section references are to the Internal Revenue Code.

Purpose of Form

The credit for employer differential wage payments was added as part of the general business credit. Use Form 8932 to claim the credit for payments you made to qualified employees during the tax year. Only differential wage payments made to qualified employees after June 17, 2008, and before January 1, 2010, can be used to figure the credit. The credit is available only to eligible small business employers. The credit is 20% of the first \$20,000 of differential wage payments paid to each qualified employee.

The credit for employer differential wage payments is part of the general business credit reported on Form 3800, General Business Credit.

For details, see section 45P.

Definitions

Qualified Employee

A qualified employee is an employee of an eligible small business employer (see below) for the 91-day period immediately preceding the period for which any differential wage payment (see below) is made.

Differential Wage Payment

To be considered a differential wage payment, the payment must meet both of the following requirements.

- The payment is made by an eligible small business employer to a qualified employee for any period during which the employee is performing service in the uniformed services of the United States while on active duty for a period of more than 30 days.
- The payment represents all or a portion of the wages the employee would have received from the employer if the employee were performing services for the employer.

Eligible Small Business Employer

An eligible small business employer means any taxpayer that:

- Employed on average fewer than 50 employees on business days during the tax year, and
- Under a **written plan** of the employer, provides eligible differential wage payments to **every** qualified employee of the employer.

Uniformed Services

Uniformed services means the Armed Forces, Army National Guard, Air National Guard, the commissioned corps of the Public Health Service, and any other category of person designated by the President in time of war or national emergency.

Members of a Controlled Group Treated as a Single Employer

For figuring the credit, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 are treated as a single employer.

Coordination With Other Credits

Any credit normally allowed for compensation paid to any employee will be reduced by the credit determined.

Disallowance for Failure to Comply With Employment or Reemployment Rights of Members of the Reserve Components of the Armed Forces of the United States

No credit will be allowed to a taxpayer for:

- Any tax year beginning after June 17, 2008, in which the taxpayer is under a final order, judgment, or other process issued or required by a district court of the United States under section 4323 of Title 38 of the United States Code with respect to a violation of chapter 43 of Title 38; and
- The two succeeding tax years.

Carryback and Carryforward of Unused Credit

If there is any unused credit due to the tax liability limit on Form 3800, you cannot carryback any unused credit to any tax year ending before June 18, 2008. You will be able to carry the credit forward 20 years.

Specific Instructions

Line 1

Generally, an eligible small business employer (defined earlier) will be able to take a credit of 20% of the first \$20,000 in differential wage payments made to each qualified employee during the tax year.

Line 2

Generally, you must reduce the deductions on your return for salaries and wages by the credit on line 2, even if you cannot take the full credit this year because of the tax liability limit. If you capitalized any costs on which you figured the credit, reduce the amount capitalized by the credit attributable to these costs.

Line 5

Cooperative. 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 has claimed the entire credit.

Estates and trusts. Allocate the credit for employer differential wage payments on line 4 between the estate or trust and the beneficiaries in the same proportion as income 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** 1 hrs., 54 min.
- Learning about the law or the form** ~~X~~ hrs., 30 min.
- Preparing and sending the form to the IRS.** ~~X~~ hrs., 33 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.