



Instructions for Form 3800

General Business Credit

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

What's New

The following new credits are added to line 1.

- Line 1t - Credits for affected Midwestern disaster area employers (Form 5884-A).
- Line 1v - Agricultural chemicals security credit (Form 8931).
- Line 1w - Credit for employer differential wage payments (Form 8932).
- Line 1x - Carbon dioxide sequestration credit (Form 8933).

The following credits are removed from line 1.

- The qualified railroad track maintenance credit is extended and now allowed to offset the alternative minimum tax (AMT). It is removed from line 1l and placed on new line 29g.
- The Hurricane Katrina housing credit from pass-through entities can no longer be claimed so it is removed from line 1u.

For its first tax year ending after March 31, 2008, a corporation can elect to claim a refundable credit for certain unused minimum tax credits in lieu of the special depreciation allowance for eligible qualified property. See the instructions for line 18b on page 2.

Part II is expanded to accommodate all of the general business credits that are allowed against alternative minimum tax. Filers claiming a credit on line 24 or line 29 must complete Part II.

General Instructions

Who Must File

You must file Form 3800 to claim any of the general business credits.

If your only source of credits listed on Form 3800, Part I, is from pass-through entities, you may not be required to complete the source credit form. Instead, you may be able to report the credit directly on Form 3800. For more details, see *Part I. Current Year Credit* on page 2.

Carryback and Carryforward of Unused Credit

If you cannot use part or all of the credit because of the tax liability limit (line 32 is less than the sum of lines 8, 24, and 30), carry the unused credit back one tax year. To carry back an unused credit, file an amended return (Form 1040X, Amended U.S. Individual Income Tax Return,

1120X, Amended U.S. Corporation Income Tax Return, or other amended return) for the prior tax year or an application for tentative refund (Form 1045, Application for Tentative Refund, or Form 1139, Corporation Application for Tentative Refund). Generally, if you file an application for a tentative refund, it must be filed by the end of the tax year following the tax year in which the credit arose.

Note. No part of the unused credit for any year attributable to any credit shall be carried back to any tax year before the first tax year for which that credit was first allowable. See *Credit Ordering Rule* below to determine which credits are allowed first.

If you have an unused credit after carrying it back, carry it forward to each of the 20 tax years after the year of the credit. Any qualified business credits (as defined in section 196(c)) that are unused after the last tax year of the 20-year carryforward period (or at the time an individual taxpayer dies or other taxpayer, such as a corporation or partnership, ceases to exist) may be taken as a deduction in the earlier of:

- The tax year following the last tax year of the 20-year carryforward period or
- The tax year in which the individual taxpayer dies or other taxpayer ceases to exist.

Change in Filing or Marital Status

Your general business credit is limited to your tax liability. Therefore, if you filed a joint return in a carryback or carryforward year and your marital status or filing status has changed, you may need to figure your separate tax liability in that carryback or carryforward year. This would apply if:

- You filed as single in the credit year, but filed a joint return in the carryback or carryforward year;
- You filed a joint return in the credit year, but filed a joint return with a different spouse in the carryback or carryforward year; or
- You were married and filed a separate return in the credit year, but filed a joint return with the same or a different spouse in the carryback or carryforward year.

Determine your separate tax liability in the carryback or carryforward year as follows.

1. Figure your tax for the carryback or carryforward year as though you were married filing a separate return.
2. Figure your spouse's tax in that year as though he or she was married filing a separate return.
3. Add the amounts in steps 1 and 2.

4. Divide the amount in step 1 by the amount in step 3. The result should be rounded to at least three decimal places.

5. Multiply the decimal in step 4 by the total tax shown on your joint return for the carryback or carryforward year. The result is your separate tax liability and a carryback or carryforward credit is applied against this amount only.

Although your carryback or carryforward of the credit is limited to your separate tax liability, the amount of your refund resulting from the carryback or carryforward is further limited to your share of the joint overpayment. This is found by subtracting your separate tax liability (as determined above) from your contribution toward the payment.

Unless you have an agreement or clear evidence of each spouse's contribution toward the payment of the joint liability, your contribution includes the tax withheld on your wages and your share of the joint estimated tax or tax paid with the return. Your share of these payments is found by using the same formula used in determining your separate tax liability. Substitute the joint estimated tax, or tax paid with the return, for the tax in step 5. If the original return for the carryback year resulted in an overpayment, reduce your contribution by your share of the refund.

Attach a copy of the computation to your amended return or application for tentative refund.

Credit Ordering Rule

General business credits reported on Form 3800 are treated as used on a first-in, first-out basis by offsetting the earliest-earned credits first. Therefore, the order in which the credits are used in any tax year is:

- Carryforwards to that year, the earliest ones first,
- The general business credit earned in that year, and
- The carryback to that year.

When relevant, the components of the general business credit reported on Form 3800 arising in a single tax year are used in the following order.

Part I, line 1

- Investment credit (in the following order— rehabilitation credit, energy credit, qualifying advanced coal project credit, and qualifying gasification project credit).
- Welfare-to-work credit.
- Credit for increasing research activities.
- Low-income housing credit.
- Disabled access credit.
- Renewable electricity production credit.
- Indian employment credit.

- Orphan drug credit.
- New markets credit.
- Credit for small employer pension plan startup costs.
- Credit for employer-provided child care facilities and services.
- Biodiesel and renewable diesel fuels credit.
- Low sulfur diesel fuel production credit.
- Distilled spirits credit.
- Nonconventional source fuel credit.
- Energy efficient home credit.
- Energy efficient appliance credit.
- Alternative motor vehicle credit.
- Alternative fuel vehicle refueling property credit.
- Credits for affected Midwestern Disaster Area employers.
- Mine rescue team training credit.
- Agricultural chemicals security credit.
- Credit for employer differential wage payments.
- Carbon dioxide sequestration credit.
- Credit for contributions to selected community development corporations.
- General credits from an electing large partnership.

Part II, lines 24 and 29

- Empowerment zone and renewal community employment credit.
- Investment credit (in the following order - rehabilitation credit and energy credit).
- Work opportunity credit.
- Alcohol and cellulosic biofuel fuels credit.
- Low income housing credit.
- Renewable electricity, refined coal, and Indian coal production credit.
- Employer social security and Medicare taxes paid on certain employee tips.
- Qualified railroad track maintenance credit.

Although these credits are aggregated on Form 3800, keep a separate record of each credit to ensure proper accounting of the credits.

Specific Instructions

Part I. Current Year Credit

Complete and attach the appropriate credit forms used to figure your current year credit. Generally, if you are a taxpayer that is not a partnership or S corporation, and your only source for a credit listed in Part I of this form is from a partnership, S corporation, estate, trust, or cooperative, you are not required to complete the source credit form or attach it to Form 3800. The following exceptions apply:

- You are claiming the investment credit (Form 3468) or biodiesel and renewable diesel fuels credit (Form 8864).
- The taxpayer is an estate or trust and the source credit can be allocated to beneficiaries. For more details, see the Instructions for Form 1041, U.S. Income Tax Return for Estates and Trusts, Schedule K-1, box 13.
- The taxpayer is a cooperative and the source credit can or must be allocated to patrons. For more details, see the Instructions for Form 1120-C, U.S. Income Tax Return for Cooperative Associations, Schedule J, line 5c.

Lines 1a and 29a

If you are a cooperative described in section 1381(a), you must allocate to your patrons the investment credit in excess of your tax liability limit. Allocate to your patrons the portion, if any, of the investment credit on line 8 or line 30 in excess of line 18a or line 28, respectively. While any excess is allocated to patrons, any credit recapture applies as if you as the cooperative had claimed the entire credit.

Line 1z

Enter the total of the amounts shown in box 7 of the Schedules K-1 (Form 1065-B), Partner's Share of Income (Loss) From an Electing Large Partnership, you received from electing large partnerships (ELPs).

Line 3

Enter the credits included on line 2 that are from passive activities. Generally, a passive activity is a trade or business in which you did not materially participate. Generally, rental activities are passive activities, whether or not you materially participated. See Form 8582-CR, Passive Activity Credit Limitations, or Form 8810, Corporate Passive Activity Loss and Credit Limitations, for details.

Line 5

Enter the passive activity credit allowed from Form 8582-CR or Form 8810. See the instructions for the applicable form for details.

Line 6

Add all carryforwards to 2008 of unused credits that are reported on Form 3800, Part I. Also include any carryforward to 2008 of any unused credit from:

- Form 3468 for years prior to 2008.
- Form 5884 for years prior to 2007.
- Form 6478 for years prior to 2005.
- Form 8846 for years prior to 2007.
- Form 8900 for years prior to 2008.

For each credit, attach a detailed computation showing: **(a)** the tax year the credit originated, the amount of the credit, and the amount allowed for that year; **(b)** for each carryback year, the year and the amount of the credit allowed after you applied the carryback; and **(c)** for each carryforward year, the year and the amount of the credit allowed after you applied the carryforward.

Line 7

Use line 7 only when you amend your 2008 return to carry back unused credits from 2009.

Part II. Allowable Credit

Line 15

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 16

Although you may not owe AMT, you generally must still compute the tentative

minimum tax (TMT) to figure your credit. Enter zero on line 16 if:

- You are a small corporation exempt from the AMT under section 55(e) or
 - The only general business credit you are claiming is on line 29.
- Otherwise, complete and attach the appropriate AMT form or schedule and enter the TMT on line 16.

Line 18b

The Housing and Economic Recovery Act of 2008 provides that for its first tax year ending after March 31, 2008, a corporation can elect to accelerate its use of unused research credit carryforwards from tax years beginning before 2006 and obtain a refundable credit in lieu of the special depreciation allowance on eligible qualified property (see *Eligible qualified property* below). If the election is made, the corporation must do the following.

- Forego the special depreciation allowance for eligible qualified property acquired (including manufactured, constructed, or produced) after March 31, 2008, and placed in service generally before January 1, 2009, and
- Use the straight-line method of depreciation on such property.

S corporations that make the election to accelerate the credit can use the credit only against the built-in gains tax. See the instructions for Schedule D (Form 1120S), line 20. Corporations that file Form 1120-REIT or Form 1120-RIC must apply the credit first against the built-in gains tax, if any, and reduce the refundable credit by the amount so applied. See the instructions for line h of the Built-in Gains Tax Worksheet in the separate instructions for those forms.

Eligible qualified property. In general, eligible qualified property is qualified property under section 168(k)(2) that is acquired after March 31, 2008, and placed in service before January 1, 2009.

For corporations electing to accelerate the use of unused research credit carryforwards and obtain a refundable credit in lieu of the special depreciation allowance, figure the bonus depreciation amount attributable to the research credit by using the *Worksheet for Calculating the Refundable Minimum Tax Credit and Research Credit Amounts* below. All others enter zero on line 18b.

For more information on the election to accelerate the research credit in lieu of the special depreciation allowance, see Rev. Proc. 2008-65, 2008-44 I.R.B. 1082, available at http://www.irs.gov/irb/2008-44_IRB/ar15.html, and Rev. Proc. 2009-16. Also, for more information on the special depreciation allowance, see the Instructions for Form 4562, Depreciation and Amortization, and Pub. 946, How To Depreciate Property.

Lines 19a and 19b

Research credit limitation. If you are an individual, the amount of the research credit that may be included on lines 19a and 19b is limited to the amount of tax attributable to your taxable income from the sole proprietorship or your interest in the partnership, S corporation, estate, or trust (pass-through entity) generating the

credit. Figure the research credit limitation separately for each business enterprise by using the following formula:

$$(Line\ 13 - line\ 15) \times \frac{\text{Taxable income attributable to the sole proprietorship or your interest in the pass-through entity}}{\text{Your taxable income for the year}}$$

The result figured above is limited to the excess of line 13 over line 15. If in the current tax year you had no taxable income attributable to a particular business interest, you cannot claim any research credit this year related to that business.

If your research credit is limited by the above formula, refigure the amount to enter on lines 19a and 19b using only the

total of the amount calculated above for the research credit plus the general business credit from other sources. If necessary, follow the Credit Ordering Rule (see page 1), and take into account any passive activity credit limitations. Write "Sec. 41(g)" on the dotted line next to your entries on lines 19a and 19b.

Corporations. If the corporation has undergone a post-1986 ownership change (as defined in section 382(g)), section 383 may limit the amount of tax that may be offset by pre-change general business credits. Also, if a corporation acquires control of another corporation (or acquires its assets in a reorganization), section 384 may limit the amount of tax attributable to recognized built-in gains that may be offset by pre-acquisition

general business credits. If either of these limitations apply, attach a computation of the allowable general business credit, enter the amount on lines 19a and 19b, and write "Sec. 383" or "Sec. 384" in the margin next to your entries on lines 19a and 19b.

Note. If the only credits you are claiming are listed in Part I, enter the line 19b amount on line 32 and skip lines 20 through 31.

Line 20

Form 8844 filers: multiply line 16 by 75%. All others skip lines 20 through 24 and enter zero on line 25.

Line 32

If line 32 is smaller than the sum of lines 8, 24, and 30, see *Carryback and Carryforward of Unused Credit* on page 1.

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 Internal Revenue Code 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 23 hr., 26 min.

Learning about the law or the form 1 hr.

Preparing and sending the form to the IRS 1 hr., 25 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.

Worksheet for Calculating the Refundable Minimum Tax Credit and Research Credit Amounts

Keep for Your Records

- 1. Enter depreciation (including the special depreciation allowance) that would have been allowed for eligible qualified property placed in service during the tax year if section 168(k)(1) had applied to such property. 1. _____
- 2. Enter depreciation for eligible qualified property placed in service during the tax year figured without regard to section 168(k)(1). 2. _____
- 3. Subtract line 2 from line 1. 3. _____
- 4. Multiply line 3 by 20%. 4. _____
- 5. Enter any unused research credit carryforward from tax years beginning before 2006. 5. _____
- 6. Enter any unused minimum tax credit carryforward from tax years beginning before 2006. 6. _____
- 7. Add line 5 and line 6. 7. _____
- 8. Multiply line 7 by 6%. 8. _____
- 9. Enter the smaller of line 8 or \$30,000,000. 9. _____
- 10. Enter any bonus depreciation amounts determined under section 168(k)(4)(C) for all preceding tax years ending after March 31, 2008. 10. _____
- 11. Subtract line 10 from line 9. If zero or less, enter -0-. 11. _____
- 12. Bonus depreciation amount. Enter the smaller of line 4 or line 11. **Note:** If you do not have a research credit carryforward, or if you choose not to allocate bonus depreciation amounts to research credit carryforwards, skip lines 13 and 14 and enter -0- on line 15. 12. _____
- 13. Enter the amount from line 10 allocated to the research credit carryforward shown on line 5. 13. _____
- 14. Maximum bonus depreciation amount allocable to the research credit. Subtract line 13 from line 5. 14. _____
- 15. Refundable research credit. Enter the smaller of line 14 or the amount on line 12 that you choose to allocate to the research credit. If you have a minimum tax credit, continue to line 16. All others, enter this amount on your 2008 Form 3800, line 18b. 15. _____
- 16. Subtract line 15 from line 12. 16. _____
- 17. Enter the amount from line 10 allocated to the minimum tax credit carryforward shown on line 6. 17. _____
- 18. Maximum bonus depreciation amount allocable to the minimum tax credit. Subtract line 17 from 6. 18. _____
- 19. Refundable minimum tax credit. Enter the smaller of line 18 or line 16. Enter this amount on your 2008 Form 8827, line 7b. 19. _____