

# 2010



Department of the Treasury  
Internal Revenue Service

# Instructions for Form 8801

## Credit for Prior Year Minimum Tax—Individuals, Estates, and Trusts

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

### General Instructions

#### Purpose of Form

Use Form 8801 if you are an individual, estate, or trust to figure the current year nonrefundable credit, if any, for alternative minimum tax (AMT) you incurred in prior tax years; to figure the current year refundable credit (individuals only), if any, for any unused credit carryforward from 2007; and to figure any credit carryforward to 2011.

#### Who Should File

Complete Form 8801 if you are an individual, estate, or trust that for 2009 had:

- An AMT liability and adjustments or preferences other than exclusion items,
- A credit carryforward to 2010 (on 2009 Form 8801, line 30), or
- An unallowed qualified electric vehicle credit (see the instructions for line 20).

File Form 8801 only if line 21 is more than zero.

### Specific Instructions

The AMT is caused by two types of adjustments and preferences—deferral items and exclusion items. Deferral items (for example, depreciation) generally do not cause a permanent difference in taxable income over time. Exclusion items (for example, the standard deduction), on the other hand, do cause a permanent difference. The minimum tax credit is allowed only for the AMT caused by deferral items.

### Part I—Net Minimum Tax on Exclusion Items

#### Line 1—Estates and Trusts

Skip lines 1 through 3 of Form 8801. To figure the amount to enter on line 4 of Form 8801, complete Parts I and II of another 2009 Form 1041, Schedule I, as a worksheet. After completing line 1 of Schedule I, complete the rest of Part I of Schedule I by taking into account only exclusion items (the amounts included on lines 2 through 6, 8, and 9, and any other adjustments related to exclusion items included on line 23 of Schedule I). On line 24 of Schedule I, use the minimum tax credit net operating loss deduction (MTCNOLD). However, do not limit the MTCNOLD to 90% of the total of lines 1 through 23 of Schedule I. (See the instructions for line 3 on this page for how to figure the MTCNOLD.) In Part II of Schedule I, complete lines 35 and 36 without taking into account any basis adjustments arising from deferral items. If the amount on Schedule I, line 29, is zero or less, enter -0- on Form 8801, line 4. Otherwise, enter on Form 8801, line 4, the amount from Schedule I, line 29, adjusted for exclusion items that were allocated to the beneficiary.

**Note.** If you complete Parts I and II of a 2009 Form 1041, Schedule I, as a worksheet to figure the amount to enter on 2010 Form 8801, line 4, **do not attach that worksheet Schedule I to your tax return.** Instead, keep it for your records.

#### Line 2

Enter on this line the adjustments and preferences treated as exclusion items (except the standard deduction). Exclusion items are only the following AMT adjustments and preferences: itemized deductions (including any investment interest expense

reported on Schedule E), certain tax-exempt interest, depletion, the section 1202 exclusion, and any other adjustments related to exclusion items. Do not include the standard deduction. It has already been included on line 1. Combine lines 2 through 5, 8 through 10, 13, and 14 of your 2009 Form 6251. Do not include any amount from line 16 of the 2009 Form 6251.

Instead, include the exclusion item amount from the Schedule(s) K-1 (Form 1041) you received for 2009. That amount is shown in box 12 with code J. If you included on line 28 of the 2009 Form 6251 any adjustments related to exclusion items, also include those adjustments in the amount you enter on line 2. Enter the total on line 2.

**Exclusion items on other lines.** If you included any exclusion item on a line not listed above, include that item in the amount you enter on line 2. For example, if depletion was included on Form 6251 as an adjustment on line 20 (passive activities) instead of on line 10 (depletion), include it as an exclusion item in the amount you enter on line 2.

#### Line 3

Your minimum tax credit net operating loss deduction (MTCNOLD) is the total of the minimum tax credit net operating loss (MTCNOL) carryovers and carrybacks to 2009. Your MTCNOL is figured as follows.

Your MTCNOL is the excess of the deductions (excluding the MTCNOLD) over the income used to figure alternative minimum taxable income (AMTI) taking into account only exclusion items. Figure this excess with the modifications in section 172(d) taking into account only exclusion items. (That is, the section 172(d) modifications must be figured separately for the MTCNOL.)

For example, the limitation of nonbusiness deductions to the amount of nonbusiness income must be figured separately for the MTCNOL using only nonbusiness income and deductions but taking into account only exclusion items. However, ignore the disallowance of the deduction for personal exemptions under section 172(d)(3) because it has already been taken into account to figure AMTI attributable only to exclusion items.

To determine the amount of MTCNOL that may be carried to tax years other than 2009, apply sections 172(b)(2) and 172(d) with appropriate modifications to take into account only exclusion items.

#### Line 4

If your filing status was married filing separately for 2009 and line 4 is more than \$216,900, you must include an additional amount on line 4. If line 4 is \$358,800 or more, include an additional \$35,475 on line 4. Otherwise, include 25% of the excess of the amount on line 4 over \$216,900. For example, if the amount on line 4 is \$236,900, enter \$241,900 instead—the additional \$5,000 is 25% of \$20,000 (\$236,900 minus \$216,900).

#### Line 9

Do not enter more than the sum of your 2009 earned income plus \$6,700 if you did not file a joint return for 2009, at least one of your parents was alive at the end of 2009, and one of the following statements is true.

1. You were under age 18 at the end of 2009.
2. You were age 18 at the end of 2009 and did not have earned income that was more than half of your support.
3. You were a full-time student over age 18 and under age 24 at the end of 2009 and did not have earned income that was more than half of your support.

**Certain January 1 birthdays.** If you were born on January 1, 1992, you are considered to be 18 at the end of 2009. This limitation applies to you only if you did not have earned income that was more than half of your support.

If you were born on January 1, 1991, you are considered to be 19 at the end of 2009. This limitation applies to you only if you were a full-time student who did not have earned income that was more than half of your support.

If you were born on January 1, 1986, you are considered to be 24 at the end of 2009. This limitation does not apply to you.

### Line 10

If you filed Form 1040NR for 2009 and had a net gain on the disposition of U.S. real property interests, line 10 cannot be less than the smaller of that net gain or line 4.

### Line 11

If for 2009 you claimed the foreign earned income exclusion or the housing exclusion on Form 2555 or Form 2555-EZ, you must use the worksheet below to figure the amount to enter on line 11.

**Form 1040NR.** If for 2009 you filed Form 1040NR and you reported capital gain distributions directly on Form 1040NR, line 14; you reported qualified dividends on Form 1040NR, line 10b; or you had a gain on both lines 15 and 16 of Schedule D (Form 1040), complete Part III on page 3 of Form 8801 and enter the amount from line 47 on line 11. All others, do not complete Part III. Instead, if Form 8801, line 10, is \$175,000 or less (\$87,500 or less if you checked filing status box 3, 4, or 5 on Form 1040NR for 2009), figure the amount to enter on line 11 by multiplying line 10 by 26% (.26). Otherwise, figure the amount to enter on line 11 by multiplying line 10 by 28% (.28) and subtracting \$3,500 (\$1,750 if you checked filing status box 3, 4, or 5 for 2009) from the result.

### Line 12

If you made an election to claim the foreign tax credit on your 2009 Form 1040 (or Form 1040NR) without filing Form 1116, enter on Form 8801, line 12, the amount from your 2009 Form 1040, line 47 (or Form 1040NR, line 44). Otherwise, the minimum tax foreign tax credit on exclusion items (MTFTCE) is your 2009 AMT foreign tax credit (AMTFTC) refigured using only exclusion items. Follow these steps to figure your MTFTCE.

**Step 1.** Use a separate 2009 Form 1116 for the MTFTCE for each separate category of income specified at the top of Form 1116.

When applying the separate categories of income, use the applicable AMT rate instead of the regular tax rate to determine if any income is "high-taxed."

**Step 2.** If you figured your 2009 AMTFTC using the simplified limitation election, skip Part I and enter on the MTFTCE Form 1116, line 16, the same amount you entered on that line for the 2009 AMT Form 1116. Otherwise, complete Part I using only

taxable income and exclusion items that are attributable to sources outside the United States. If you had any 2009 foreign source qualified dividends or foreign source capital gains (including any foreign source capital gain distributions) or losses, use the instructions under *Step 3* to determine whether you must make adjustments to those amounts before you include the amounts on line 1a or line 5 of the MTFTCE Form 1116.

**Step 3.** Follow the instructions below, if applicable, to determine the amount of foreign source qualified dividends, capital gain distributions, and other capital gains and losses to include on line 1a and line 5 of the MTFTCE Form 1116.

**Foreign qualified dividends.** You must adjust your foreign source qualified dividends before you include those amounts on line 1a of the MTFTCE Form 1116 if:

- Line 45 of Form 8801 is smaller than line 46, and
- Line 34 of Form 8801 is greater than zero.

But you do not need to make any adjustments if:

- You qualified for the adjustment exception under *Qualified Dividends and Capital Gain Tax Worksheet (Individuals)*, *Qualified Dividends Tax Worksheet (Estates and Trusts)*, or *Adjustments to foreign qualified dividends under Schedule D Filers*, whichever applies, in the Form 1116 instructions when you completed your regular tax Form 1116 (or you would have qualified for that adjustment exception if you had completed a regular tax Form 1116) for 2009, and
- Line 34 of Form 8801 is not more than \$175,000 (\$87,500 if married filing separately for 2009).

To adjust your foreign source qualified dividends, multiply your foreign source qualified dividends in each separate category by 0.5357 (instead of 0.4286) if the foreign source qualified dividends are taxed at a rate of 15%. If you have foreign source qualified dividends that are taxed at a rate of 0%, you adjust them by not including them on line 1a of MTFTCE Form 1116. Include the results on line 1a of the applicable MTFTCE Form 1116. But do not adjust the amount of any foreign source qualified dividend you elected to include on line 4g of Form 4952.

**Individuals with capital gain distributions only.** If you had no 2009 capital gains or losses other than capital gain distributions from box 2a of Form(s) 1099-DIV or substitute statement(s), you must adjust your foreign source capital gain distributions before you include those amounts on line 1a of the MTFTCE Form 1116 if you are required to adjust your foreign source qualified dividends under the rules just described or you would be required to adjust your foreign source qualified dividends if you had any.

To adjust your foreign source capital gain distributions, multiply your foreign source capital gain distributions in each separate category by 0.5357 (instead of 0.4286) if the foreign

## Foreign Earned Income Tax Worksheet—Line 11

Keep for Your Records



**Before you begin:** ✓ If Form 8801, line 10, is zero, do not complete this worksheet.

1. Enter the amount from Form 8801, line 10 . . . . .	1. _____
2. Enter the amount from your (and your spouse's if filing jointly) 2009 Form 2555, lines 45 and 50, or 2009 Form 2555-EZ, line 18 . . . . .	2. _____
3. Add lines 1 and 2 . . . . .	3. _____
4. <b>Tax on the amount on line 3.</b>	
• If for 2009 you reported capital gain distributions directly on Form 1040, line 13; or you reported qualified dividends on Form 1040, line 9b; or you had a gain on both lines 15 and 16 of Schedule D (Form 1040), enter the amount from line 3 of this worksheet on Form 8801, line 29. Complete the rest of Part III of Form 8801. However, before completing Part III, see <i>Forms 2555 and 2555-EZ</i> , on page 4, to see if you must complete Part III with certain modifications. Then enter the amount from Form 8801, line 47, here.	} 4. _____
• <b>All others:</b> If line 3 is \$175,000 or less (\$87,500 or less if married filing separately for 2009), multiply line 3 by 26% (.26). Otherwise, multiply line 3 by 28% (.28) and subtract \$3,500 (\$1,750 if married filing separately for 2009) from the result.	
5. <b>Tax on the amount on line 2.</b> If line 2 is \$175,000 or less (\$87,500 or less if married filing separately for 2009), multiply line 2 by 26% (.26). Otherwise, multiply line 2 by 28% (.28) and subtract \$3,500 (\$1,750 if married filing separately for 2009) from the result. . . . .	5. _____
6. Subtract line 5 from line 4. Enter the result here and on Form 8801, line 11. . . . .	6. _____

source capital gain distributions are taxed at a rate of 15%. If you have foreign source capital gain distributions that are taxed at a rate of 0%, you adjust them by not including them on line 1a of MTFTCE Form 1116. Include the results on line 1a of the applicable MTFTCE Form 1116. But do not adjust the amount of any foreign source capital gain distribution you elected to include on line 4g of Form 4952.

**Other capital gains or losses.** Use Worksheet A in the instructions for the 2009 Form 1116 to determine the adjustments you must make to your foreign source capital gains or losses if you have foreign source capital gains or losses in no more than two separate categories and any of the following apply.

- You figured your 2009 tax using the Qualified Dividends and Capital Gain Tax Worksheet in the Form 1040 (or Form 1040NR) instructions and line 3 of that worksheet minus the amount on line 4e of Form 4952 that you elected to include on line 4g of Form 4952 is zero or less.
- Line 15 or 16 of your 2009 Schedule D (Form 1040) (column (2) of line 14a or 15 of Schedule D (Form 1041)) is zero or a loss.
- You figured your 2009 tax using Schedule D (Form 1041) and line 18 of Schedule D minus the amount on line 4e of Form 4952 that you elected to include on line 4g of Form 4952 is zero or less.
- You figured your 2009 tax using the Schedule D Tax Worksheet in the Schedule D (Form 1040) instructions or in the Form 1041 instructions and line 9 of that worksheet is zero or a loss.
- You were not required to make adjustments to your foreign source qualified dividends under the rules described earlier (or you would not have been required to make those adjustments if you had foreign source qualified dividends).

Use Worksheet B if you:

- Cannot use Worksheet A,
- Had 2009 foreign source capital gains and losses in no more than two separate categories,
- Did not have any item of unrecaptured section 1250 gain or 28% rate gain or loss, and
- Did not have any capital gains taxed at a rate of 0%.

**Instructions for Worksheets A and B.** When you complete Worksheet A or Worksheet B, do not use any foreign source capital gains you elected to include on line 4g of Form 4952. Use 0.5357 instead of 0.4286 to complete lines 11, 13, and 15 of Worksheet B and to complete lines 8, 11, and 17 of the Line 15 Worksheet for Worksheet B.

If you do not qualify to use Worksheet A or Worksheet B, use the instructions for *Capital Gains and Losses* in Pub. 514 to determine the adjustments you make.

**Step 4.** Complete lines 9 through 13 of the MTFTCE Form 1116. For line 9, use the same amount you entered on that line for 2009 for the regular tax. Use your MTFTCE carryover, if any, on line 10.

**Step 5.** If you did not figure your 2009 AMTFTC using the simplified limitation election, complete lines 14 through 16 of the MTFTCE Form 1116.

**Step 6.** If you did not complete Part III of Form 8801, enter the amount from Form 8801, line 4, on line 17 of the MTFTCE Form 1116 and go to *Step 7*. If you completed Part III of Form 8801, you must complete, for the MTFTCE, the Worksheet for Line 17 in the Form 1116 instructions to determine the amount to enter on line 17 of the MTFTCE Form 1116 if:

- Line 45 of Form 8801 is smaller than line 46, and
- Line 34 of Form 8801 is greater than zero.

But you do not need to complete the Worksheet for Line 17 if:

- You qualified for the adjustment exception under *Qualified Dividends and Capital Gain Tax Worksheet (Individuals)*, *Qualified Dividends Tax Worksheet (Estates and Trusts)*, or *Adjustments to foreign qualified dividends under Schedule D Filers*, whichever applies, in the Form 1116 instructions when you completed your regular tax Form 1116 (or you would have qualified for that adjustment exception if you had completed a regular tax Form 1116) for 2009, and
- Line 34 of Form 8801 is not more than \$175,000 (\$87,500 if married filing separately for 2009).

If you do not need to complete the Worksheet for Line 17, enter the amount from line 4 of Form 8801 on line 17 of the MTFTCE Form 1116.

**Instructions for MTFTCE Worksheet for Line 17.** Follow these steps to complete, for the MTFTCE, the Worksheet for Line 17 in the Form 1116 instructions.

1. Enter the amount from Form 8801, line 4, on line 1 of the worksheet.
2. Skip lines 2 and 3 of the worksheet.
3. Enter the amount from Form 8801, line 43, on line 4 of the worksheet.
4. Multiply line 4 of the worksheet by 0.1071 (instead of 0.2857). Enter the result on line 5 of the worksheet.
5. Enter the amount from Form 8801, line 41, on line 6 of the worksheet.
6. Multiply line 6 of the worksheet by 0.4643 (instead of 0.5714). Enter the result on line 7 of the worksheet.
7. Enter the amount from Form 8801, line 40, on line 8 of the worksheet.
8. Complete lines 9 and 10 of the worksheet as instructed on the worksheet.

**Step 7.** Enter the amount from Form 8801, line 11, on the MTFTCE Form 1116, line 19. Complete lines 18, 20, and 21 of the MTFTCE Form 1116.

**Step 8.** Complete Part IV of the first MTFTCE Form 1116 only. Enter the amount from that MTFTCE Form 1116, line 29, on Form 8801, line 12.

**Step 9.** Keep all Forms 1116 you used to figure your MTFTCE, but do not attach them to your tax return.

If line 13 of the MTFTCE Form 1116 is greater than line 20 of the MTFTCE Form 1116, keep a record of the difference. This amount is carried forward and used to figure your MTFTCE next year.

## Part II—Current Year Nonrefundable and Refundable Credits and Carryforward to 2011

### Line 20

Enter any qualified electric vehicle credit not allowed for 2009 solely because of the limitation under section 30(b)(3)(B) (as in effect prior to the amendment of section 30 by Public Law 111-5, the American Recovery and Reinvestment Tax Act of 2009).

### Line 21

If line 21 is zero, you do not have a nonrefundable or refundable credit or a credit carryforward. Do not complete the rest of this form and do not file it.

### Line 22

Follow the instructions below and refer to your 2010 income tax return to figure the amount to enter on line 22.

**Form 1040.** Subtract from the amount on line 44 the total of any credits on lines 47 through 53 (not including any credit for prior year minimum tax or any credit claimed on Form 8912). Enter the result. If the result is zero or less, enter -0-.

**Form 1040NR.** Subtract from the amount on line 42 the total of any credits on lines 45 through 50 (not including any credit for prior year minimum tax or any credit claimed on Form 8912). Enter the result. If the result is zero or less, enter -0-.

**Form 1041, Schedule G.** Add the credits on lines 2a and 2b, plus any write-in credits on line 3. Subtract the result from the total of lines 1a and 1b. Enter the result. If the result is zero or less, enter -0-.

## Part III—Tax Computation Using Maximum Capital Gains Rates

If your 2009 taxable income was zero or less, enter -0- on Form 8801, line 37. You also must take one of the following actions, whichever applies to you, before completing lines 30, 31, and 32 of Part III.

- Complete lines 2 through 6 of the Qualified Dividends and Capital Gain Tax Worksheet on page 39 of the 2009 Instructions for Form 1040.
- Complete lines 2 through 4 of the Qualified Dividends and Capital Gain Tax Worksheet on page 21 of the 2009 Instructions for Form 1040NR.
- Complete lines 2 through 13 of the Schedule D Tax Worksheet on page D-10 of the 2009 Instructions for Schedule

D (Form 1040) or page 8 of the 2009 Instructions for Schedule D (Form 1041), whichever applies.

- Complete lines 2 through 4 of the Qualified Dividends Tax Worksheet on page 27 of the 2009 Instructions for Form 1041.
- Complete lines 18 through 22 of the 2009 Schedule D (Form 1041).

To determine which worksheet or form above applies to you, see the 2009 Instructions for Form 1040, line 44; Form 1040NR, line 41; or Form 1041, Schedule G, line 1a.

**Lines 30, 31, and 32**

Follow the instructions below to figure the amounts to enter on lines 30, 31, and 32 if, **for 2009**:

1. You filed Form 1040NR and did not use the Schedule D Tax Worksheet to figure your tax,
2. You filed Form 1041 and did not use the Schedule D Tax Worksheet or Part V of Schedule D (Form 1041) to figure your tax, or
3. You filed Form 2555 or 2555-EZ and have a capital gain excess (defined later).

Otherwise, complete lines 30, 31, and 32 following the instructions for those lines on the form.

**Form 1040NR.** If (1) above applies, enter the amount from line 4 of the Qualified Dividends and Capital Gain Tax Worksheet in the 2009 Form 1040NR instructions on Form 8801, lines 30 and 32; skip Form 8801, line 31; and enter on Form 8801, line 37, the amount from line 5 of that worksheet.

**Estates and trusts.** If (2) above applies, enter the amount from line 4 of the Qualified Dividends Tax Worksheet in the 2009 Form 1041 instructions on Form 8801, lines 30 and 32; skip Form 8801, line 31; and enter on Form 8801, line 37, the amount from line 5 of that worksheet.

**Forms 2555 and 2555-EZ.** If you filed either of these forms for 2009 and you have a capital gain excess, you must complete Part III of Form 8801 with certain modifications. To see if you have a capital gain excess, subtract Form 8801, line 10, from line 6 of your 2009 Qualified Dividends and Capital Gain Tax Worksheet (or line 10 of your 2009 Schedule D Tax Worksheet). If the result is more than zero, that amount is your capital gain excess.

If you have a capital gain excess, figure the amounts to enter on lines 30, 31, and 32 of Form 8801 using the following modifications (only for purposes of Part III of Form 8801).

1. Reduce the amount on line 3 of your 2009 Qualified Dividends and Capital Gain Tax Worksheet or line 9 of your 2009 Schedule D Tax Worksheet (but not below zero) by your capital gain excess.
2. Reduce the amount on line 2 of your 2009 Qualified Dividends and Capital Gain Tax Worksheet or line 6 of your 2009 Schedule D Tax Worksheet (but not below zero) by any of your capital gain excess not used in (1).
3. Reduce the amount on your 2009 Schedule D (Form 1040), line 18, (but not below zero) by your capital gain excess.
4. Include your capital gain excess as a loss on line 16 of your 2009 Unrecaptured Section 1250 Gain Worksheet on page D-9 of the 2009 Instructions for Schedule D (Form 1040).

**Line 35**

If **for 2009** you filed Form 1040NR and Form 8801, line 34, is \$175,000 or less (\$87,500 or less if you checked filing status

box 3, 4, or 5 on Form 1040NR for 2009), multiply line 34 by 26% (.26). Otherwise, multiply line 34 by 28% (.28) and subtract \$3,500 (\$1,750 if you checked filing status box 3, 4, or 5 on Form 1040NR for 2009) from the result.

**Line 36**

If **for 2009** you filed Form 1040NR, enter \$33,950 (\$67,900 if you checked filing status box 6 on Form 1040NR for 2009).

**Line 37**

If **for 2009** you filed Form 1040NR, enter on Form 8801, line 37, the amount from line 5 of your 2009 Qualified Dividends and Capital Gain Tax Worksheet in the Instructions for Form 1040NR, line 41, or the amount from line 14 of your 2009 Schedule D Tax Worksheet on page D-10 of the 2009 Instructions for Schedule D (Form 1040), whichever applies. If you did not complete either worksheet, enter -0-.

**Line 46**

If **for 2009** you filed Form 1040NR and Form 8801, line 29, is \$175,000 or less (\$87,500 or less if you checked filing status box 3, 4, or 5 on Form 1040NR for 2009), multiply line 29 by 26% (.26). Otherwise, multiply line 29 by 28% (.28) and subtract \$3,500 (\$1,750 if you checked filing status box 3, 4, or 5 on Form 1040NR for 2009) from the result.

**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> . . . . .	2 hrs., 4 min.
<b>Learning about the law or the form</b> . . . . .	2 hrs., 19 min.
<b>Preparing the form</b> . . . . .	2 hrs., 3 min.
<b>Copying, assembling, and sending the form to the IRS</b> . . . . .	48 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.