

New York Liberty Zone Business Employee Credit

Department of the Treasury
Internal Revenue Service

▶ Attach to your tax return.

Name(s) shown on return

Identifying number

Part I Current Year Credit (Members of a controlled group, see instructions.)

1 Enter the total qualified wages paid or incurred during the tax year to New York (NY) Liberty Zone business employees for work performed during calendar year 2002 or 2003 who have:		
a Worked for you at least 120 hours but fewer than 400 hours \$ × 25% (.25) =	1a	
b Worked for you at least 400 hours \$ × 40% (.40) =	1b	
2 Add lines 1a and 1b. You must subtract this amount from your deduction for salaries and wages	2	
3 NY Liberty Zone business employee credits from pass-through entities:		
If you are a—		Then enter the NY Liberty Zone business employee credits from—
a Shareholder	}	Schedule K-1 (Form 1120S), box 13, code G, H, or N
b Partner		Schedule K-1 (Form 1065), box 15, code G, H, or N
c Beneficiary		Schedule K-1 (Form 1041), line 14
d Patron		Written statement from cooperative
4 Add lines 2 and 3	4	
5 NY Liberty Zone business employee credit included on line 4 from passive activities (see instructions)	5	
6 Subtract line 5 from line 4	6	
7 NY Liberty Zone business employee passive activity credit allowed for 2004 (see instructions)	7	
8 Carryforward of NY Liberty Zone business employee credit to 2004	8	
9 Carryback of NY Liberty Zone business employee credit from 2005 (see instructions)	9	
10 Current year credit. Add lines 6 through 9. (S corporations, partnerships, estates, trusts, cooperatives, regulated investment companies, and real estate investment trusts, see instructions.)	10	

Part II Allowable Credit

11 Regular tax before credits:		
• Individuals. Enter the amount from Form 1040, line 43	}	11
• Corporations. Enter the amount from Form 1120, Schedule J, line 3; Form 1120-A, Part I, line 1; or the applicable line of your return		
• Estates and trusts. Enter the sum of the amounts from Form 1041, Schedule G, lines 1a and 1b, or the amount from the applicable line of your return		
12 Alternative minimum tax:		
• Individuals. Enter the amount from Form 6251, line 35	}	12
• Corporations. Enter the amount from Form 4626, line 14		
• Estates and trusts. Enter the amount from Form 1041, Schedule I, line 56		
13 Add lines 11 and 12	13	
14a Foreign tax credit	14a	
b Credits from Form 1040, lines 47 through 53	14b	
c Possessions tax credit (Form 5735, line 17 or 27)	14c	
d Credit for fuel from a nonconventional source	14d	
e Qualified electric vehicle credit (Form 8834, line 20)	14e	
f Add lines 14a through 14e	14f	
15 Net income tax. Subtract line 14f from line 13. If zero, skip lines 16 through 19 and enter -0- on line 20	15	
16 Net regular tax. Subtract line 14f from line 11. If zero or less, enter -0-	16	
17 Enter 25% (.25) of the excess, if any, of line 16 over \$25,000 (see instructions)	17	
18 Subtract line 17 from line 15. If zero or less, enter -0-	18	
19 General business credit (see instructions)	19	
20 Subtract line 19 from line 18. If zero or less, enter -0-	20	
21 Credit allowed for the current year. Enter the smaller of line 10 or line 20 here and on Form 1040, line 54; Form 1120, Schedule J, line 6d; Form 1120-A, Part I, line 2; Form 1041, Schedule G, line 2c; or the applicable line of your return. If line 20 is smaller than line 10, see instructions	21	

General Instructions

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

Purpose of Form

A New York Liberty Zone business uses Form 8884 to claim the New York Liberty Zone business employee credit. The credit is 40% (25% for employees who worked for you fewer than 400 hours) of the qualified wages (up to \$6,000) paid or incurred during the tax year, for work performed during calendar year **2002 or 2003 only** to each New York Liberty Zone business employee.

Note. The credit is **not** allowed for work performed during **2004**.

You may claim or elect not to claim the credit any time within 3 years from the due date of your tax return (excluding extensions) on either your original or an amended return.

The New York Liberty Zone business employee credit is treated as a part of the work opportunity credit, and New York Liberty Zone business employees are considered members of a targeted group under the work opportunity credit. However, unlike the other targeted groups, New York Liberty Zone business employees do not require certification for their wages to qualify for the credit. Also, because of the special tax liability limit that applies to the credit for these employees, use only Form 8884 to figure the credit. Do not use Form 3800, General Business Credit, or Form 5884, Work Opportunity Credit, for this credit.

For more details, see Notice 2002-42. You can find Notice 2002-42 on page 36 of Internal Revenue Bulletin 2002-27 at www.irs.gov/pub/irs-irbs/irb02-27.pdf.

Definitions

New York Liberty Zone Business

A New York Liberty Zone business is any business that is located:

- In the New York Liberty Zone (see below) or
- In the city of New York, New York, outside the New York Liberty Zone, as a result of the physical destruction or damage of its place of business by the September 11, 2001, terrorist attack.

Exception. A business is not considered a New York Liberty Zone business for any tax year for which it employed an average of more than 200 employees on business days during the tax year. A business day is any day on which your business is open to the public or you regularly conduct business. You can use any reasonable method of calculating the average number of employees on business days during the tax year. For example, you may count employees on each business day and average the numbers, or count employees on the last day of each pay period and average those numbers. If you use different pay periods for different groups of employees, you may calculate the average number of employees in the groups separately, and then add the averages. You may count each part-time employee as one employee, or as a fraction of an employee, using any reasonable method of determining full-time equivalents.

New York Liberty Zone

The New York Liberty Zone is the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the borough of Manhattan in the city of New York, New York.

New York Liberty Zone Business Employee

A New York Liberty Zone business employee is, for any period, any employee of a New York Liberty Zone business if 80% or more of the services of the employee during the period are performed for the business:

1. In the New York Liberty Zone or
2. In the city of New York, New York, outside the New York Liberty Zone, for a New York Liberty Zone business located outside the New York Liberty Zone as a result of the physical destruction or damage of its place of business by the September 11, 2001, terrorist attack.

Limit on Number of Employees Located Outside the New York Liberty Zone. The number of employees described in 2 above that are treated as New York Liberty Zone business employees on any day is limited to the excess of:

- The number of employees of the business on September 11, 2001, in the New York Liberty Zone over
- The number of New York Liberty Zone business employees (determined without regard to employees described in 2 above) of the business on the day to which the limit is being applied.

Example 1. Elm is a cash-basis, calendar-year New York Liberty Zone business that had two places of business and 60 employees in the New York Liberty Zone on September 11, 2001. One place of business remained in the New York Liberty Zone. Due to damage incurred on September 11, 2001, Elm relocated the other place of business to Brooklyn. On each business day during the year, 40 employees performed services at the place of business in New York City inside the New York Liberty Zone, and 30 employees performed services at the place of business in New York City outside the New York Liberty Zone. Elm did not exceed the 200-employee limit. Elm can claim the credit on the basis of the qualified wages it paid during its tax year to 60 employees (the 40 employees inside the New York Liberty Zone and 20 of the 30 employees in Brooklyn).

Example 2. The facts are the same as in Example 1, except that on each business day, 70 employees performed services at the place of business inside the New York Liberty Zone, and 20 employees performed services at the Brooklyn place of business in New York City outside the New York Liberty Zone. Elm can claim the credit on the basis of the qualified wages it paid to all 70 employees inside the New York Liberty Zone. Elm cannot claim the credit on the basis of the qualified wages it paid to any of the employees outside the New York Liberty Zone.

Members of a controlled group, see sections 52 and 1400L(a)(2)(D)(ii).

Qualified Wages

Qualified wages are wages paid or incurred by the employer during the tax year to New York Liberty Zone business employees for **work performed during calendar year 2002 or 2003 only**. The amount of qualified wages that may be taken into account for any employee is limited to \$6,000 per calendar year. Wages qualifying for the credit generally have the same meaning as wages (excluding tips) subject to the Federal Unemployment Tax Act (FUTA). 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.

The amount of qualified wages for any employee is zero if:

- The employee worked for you fewer than 120 hours,
- The employee is your dependent,
- The employee is related to you (see section 51(i)(1)),
- 50% or less of the wages the employee received from you were for working in your trade or business, or
- You use any of the employee's wages to figure the welfare-to-work credit.

Qualified wages do not include:

- Wages paid to any employee during any period for which you received payment for the employee from a federally funded on-the-job training program,
- Wages used to figure the credit on Form 5884, and
- Wages for services of replacement workers during a strike or lockout.

Controlled group members. The group member proportionately contributing the most qualified wages figures the group credit in Part I and skips Part II. See sections 52(a) and 1563. On separate Forms 8884, that member and every other member of the group should skip lines 1a and 1b and enter its share of the group credit on line 2. Each member then completes the rest of its separate form. Each member must attach to its Form 8884 a schedule showing how the group credit was allocated among the members. The members share the credit in the same proportion that they contributed qualified wages.

Specific Instructions

Note. If you only have a credit allocated to you from a pass-through entity, skip lines 1 and 2 and go to line 3.

Lines 1a and 1b

For employees who have worked for you at least 120 hours but fewer than 400 hours, the credit rate is 25%. For employees who have worked for you at least 400 hours, the credit rate is 40%. Enter on the applicable line the total qualified wages paid (or incurred) to employees during the tax year for work performed during calendar year 2002 or 2003. Multiply the wages you enter by the percentage shown.

Note. Do **not** include wages for work performed during 2004.

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. However, the following exceptions to this rule apply.

- You capitalized any salaries and wages on which you figured the credit. In this case, reduce your depreciable basis by the amount of the credit on those salaries and wages.

- You used the full absorption method of inventory costing, which required you to reduce your basis in inventory for the credit.

If either of the above exceptions applies, attach a statement explaining why the amount on line 2 differs from the amount by which you reduced your deduction.

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

Line 7

Enter the passive activity credit allowed for the 2004 New York Liberty Zone business employee credit from Form 8582-CR or Form 8810.

Line 9

Use only if you amend your 2004 return to carry back an unused New York Liberty Zone business employee credit from 2005.

Line 10

If line 10 is zero, skip Part II.

S corporations and partnerships. Allocate the credit among the shareholders or partners. Attach Form 8884 to the return and on Schedule K-1 show the credit for each shareholder or partner. Electing large partnerships include this credit in "general credits."

Estates and trusts. The credit is allocated between the estate or trust and the beneficiaries in proportion to the income allocable to each. Next to line 10, the estate or trust should enter its part of the total credit. Label it "1041 Portion" and use this amount in Part II to figure the allowable credit to claim on Form 1041.

Cooperatives. Most tax-exempt organizations cannot take the credit, but a cooperative described in section 1381(a) takes the credit to the extent it has tax liability. Any excess is shared among its patrons.

Regulated investment companies and real estate investment trusts. Reduce the allowable credit to the company's or trust's ratable share of the credit. For details, see Regulations section 1.52-3(b).

Line 17

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 19

Enter the amount of all other allowed credits for the current year included in the general business credit. If you are filing a single separate general business credit form,

enter the amount from the last line of that form. If you are filing Form 3800, enter the amount from line 19 of that form (plus any amount from Form 8844, line 24). If you are filing Form 8844 and another general business credit form (other than Form 3800), enter the sum of Form 8844, line 24, plus the last line of the other general business credit form. Do not include any amount from Section B, Form 8835.

Line 21

If you cannot use all of the credit because of the tax liability limit (line 20 is smaller than line 10), carry the unused part back 1 year then forward up to 20 years. To carry back an unused credit, file an amended income tax return (Form 1040X, Form 1120X, 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), and attach an amended Form 8884. If you file an application for tentative refund, it generally must be filed within 12 months after the end of the tax year in which the credit arose.

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 average time is:

- Recordkeeping** 8 hr., 7 min.
- Learning about the law or the form** 1 hr.
- Preparing and sending the form to the IRS** 1 hr., 10 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.