1996

Department of the Treasury
Internal Revenue Service

Instructions for Form 3800

General Business Credit

Section references are to the Internal Revenue Code.

General Instructions

Changes To Note

The Small Business Job Protection Act of 1996 reinstated certain expired credits and also changed the rules for claiming certain credits that are part of the general business credit. The affected credits include:

- The work opportunity credit (formerly the jobs credit), which covers qualified individuals who begin work after September 30, 1996, and before October 1, 1997. See **Form 5884,** Work Opportunity Credit, for more details.
- The research credit, which is generally effective for costs paid or incurred after June 30, 1996, and before June 1, 1997. See **Form 6765,** Credit for Increasing Research Activities, for more details.
- The orphan drug credit, which is effective for costs paid or incurred after June 30, 1996, and before June 1, 1997. New **Form 8820,** Orphan Drug Credit, is used to report the credit, which is now part of the general business credit.
- The credit for employer social security and Medicare taxes paid on certain employee tips. For tips received for services performed after 1996, this credit has been expanded to cover establishments that provide food and beverages for consumption off the premises (if tipping is customary). See **Form 8846,** Credit for Employer Social Security and Medicare Taxes Paid on Certain Employee Tips, for more details.

Who Must File

You must file Form 3800 if any of the following apply:

1. You have more than one of the credits listed below (other than the empowerment zone employment credit).

2. You have a carryback or carryforward of any of these credits (other than the empowerment zone employment credit).

3. Any of these credits (other than the low-income housing credit or the empowerment zone employment credit) is from a passive activity.

4. You are claiming the trans-Alaska pipeline liability fund credit.

If you are not required to file Form 3800, file only the applicable credit form(s) listed in the parentheses below.

The general business credit consists of the following:

- Investment credit (Form 3468),
- Work opportunity credit (Form 5884),
- Credit for alcohol used as fuel (Form 6478),
- Credit for increasing research activities (Form 6765),
- Low-income housing credit (Form 8586),
- Enhanced oil recovery credit (Form 8830),
- Disabled access credit (Form 8826),
- Renewable electricity production credit (Form 8835),
- Indian employment credit (Form 8845),
- Credit for employer social security and Medicare taxes paid on certain employee tips (Form 8846),
- Orphan drug credit (Form 8820),
- Credit for contributions to selected community development corporations (Form 8847), and
- Trans-Alaska pipeline liability fund credit.

The empowerment zone employment credit is also a part of the general business credit. However, it is figured separately on Form 8844 and is never carried to Form 3800.

Carryback and Carryforward of Unused Credit

If you cannot use part or all of the credit because of the tax liability limitations, carry any excess back to each of the 3 preceding tax years, beginning with the earliest. If you have an unused credit after carrying it back, carry it forward to each of the 15 years after the year of the credit. Any “qualified business credits” (as defined in section 196(c)) that are unused after that 15-year carryforward period has expired (or at the time a taxpayer dies or goes out of business) may be taken as a deduction in the first tax year following the expiration of the 15-year carryforward period (or in the tax year in which the taxpayer's death or cessation of business occurs). For purposes of this special deduction, only half of the following credits may be taken into account: **(a)** unused investment credit (other than a credit to which section 48(q)(3) applies as in effect prior to repeal by the Revenue Reconciliation Act of 1990), and **(b)** unused credit for increasing research activities.

Note: *You cannot carry back* **(a)** *the renewable electricity production credit attributable to wind as the qualified energy resource to years ending before 1994 or* **(b)** *the orphan drug credit to years ending before July 1, 1996.*

Do not include any carryback or carryforward of the empowerment zone employment credit on Form 3800. Instead, use Form 8844.

Change in 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 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.
- 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.

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, your refund may be further limited.

The amount of your refund resulting from the carryback or carryforward is 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 claim for refund showing how you made the allocations.

Credit ordering rule.— The general business credits are used in the following order as of the close of the tax year in which the credit is used:

- Regular investment credit.
- Rehabilitation investment credit.
- Employee plan investment credit carryforward.
- Energy investment credit.
- Reforestation investment credit.
- Work opportunity credit (including any jobs credit carryforward).
- Credit for alcohol used as fuel.
- Credit for increasing research activities.
- Low-income housing credit.
- Enhanced oil recovery credit.
- Disabled access credit.
- Renewable electricity production credit.
- Indian employment credit.
- Employer social security and Medicare taxes paid on certain employee tips.
- Orphan drug credit.
- Credit for contributions to selected community development corporations.
- WIN credit carryforward.
- Employee stock ownership plan (ESOP) credit carryforward.
- Trans-Alaska pipeline liability fund credit.

Although these credits are aggregated as the general business credit, keep a separate record of each credit to ensure that no credits or deductions are lost.

Specific Instructions

Parts I and II

Lines 1a-1l.— Complete the applicable part (generally Part I) of the appropriate credit form(s) to figure your current year credit(s). Enter this amount on the applicable line 1 entry space(s) and attach the credit form(s) to your return.

Line 1m.— Attach a statement that shows how you figured the credit under section 4612(e).

Line 2.— Enter the credits included on line 1n 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 participate. 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), for more details.

Line 4.— Enter the passive activity credit allowed for 1996 from Form 8582-CR or Form 8810. See the instructions for the applicable form for more information.

Line 5.— All carryforwards of unused credits that make up the general business credit are added together and become a business credit carryforward to 1996.

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.

You must reduce by 35% the portion of the business credit carryforward attributable to the section 46(a)(1) regular investment credit and the sections 46(b)(2)(C) and (D) business energy investment credit (as in effect prior to the repeal of these three sections by the Revenue Reconciliation Act of 1990). Use the following worksheet to figure the allowable portion and include the reduced credit on line 5. Do not reduce any portion of the credit attributable to qualified timber property.

1. Carryforward of applicable section 46(a)(1) regular and sections 46(b)(2)(C) and (D) energy investment credit (prior to repeal by the Revenue Reconciliation Act of 1990) from prior year(s)	_____
2. Enter 35% (.35) of line 1 above.....	_____
3. Subtract line 2 from line 1. This is the amount of the applicable regular and energy investment credit carryforward you may use. Enter here and include with any other carryforwards on line 5 of Form 3800.....	_____

If you cannot use all of the reduced credit because line 16 is smaller than line 7, carry forward to your next tax year in the carryforward period the unused portion of the credit and a corresponding portion of the 35% reduction. For example, if you are able to use only half of the line 3 credit of the worksheet above in 1996, carry forward the other half of the credit and half of the 35% reduction.

Line 6.— Use only when you amend your 1996 return to carry back unused credits from later years.

Note: *Do not enter the carryback of any unused empowerment zone employment credit on line 6. Instead, enter this carryback on Form 8844.*

Line 13.— Enter the tentative minimum tax (TMT) that was figured on the appropriate alternative minimum tax (AMT) form or schedule. Although you may not owe AMT, you must still compute the TMT to figure your credit.

Line 14.— See section 38(c)(3) 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 17.— If line 16 is smaller than line 7, see **Carryback and Carryforward of Unused Credit** on page 1.

Individuals, estates, or trusts.— For an individual, estate, or trust, the credit for increasing research activities on line 17 is limited to the amount of tax attributable to your taxable income from the sole proprietorship, partnership, S corporation, estate, or trust (flow-through entity) generating the credit. Figure the research credit limitation separately for each business enterprise by using the following formula:

$$(\text{Line 12} - \text{line 14}) \times \frac{\text{Taxable income attributable to your interest in the sole proprietorship, or flow-through entity}}{\text{Your taxable income for the year}}$$

When using the formula, the result is limited to 100% of line 12 minus line 14. 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 credit for increasing research activities is limited by the above formula, enter on line 17 the total of the amount calculated above for the credit for increasing research activities plus the general business credit from other sources. Write “Sec. 41(g)” in the margin next to your entry on line 17.

Corporations.— If the corporation has undergone a post-1986 “ownership change” (as defined in section 382(g)), sections 383 and 384 may limit the amount of tax, including the tax on built-in gains, that may be offset by pre-change general business credits. If either of these limitations apply, attach a computation of the allowable general business credit; enter the amount on line 17; and write “Sec. 383” or “Sec. 384” on the dotted line to the left of line 17.

Schedule A

C corporations.— A corporation other than an S corporation may be entitled to a larger general business credit or additional credit against the alternative minimum tax if it is claiming a regular investment credit carryforward on line 5, some of that investment credit cannot be used because line 16 is smaller than line 7, and it is required to file **Form 4626,** Alternative Minimum Tax—Corporations. Complete Schedule A to determine if the corporation is entitled to this additional credit.

Line 36.— Reduce the AMT that the corporation figured on line 15 of **Form 4626,** Alternative Minimum Tax—Corporations, by the line 36 amount. Enter the reduced AMT on Form 1120, Schedule J, line 9 (or Form 1120-A, Part I, line 6). See the instructions for the appropriate line of the corporate income tax return for details on reporting the reduced AMT.