

Indian Employment Credit**1996**Attachment
Sequence No. **93**► **Attach to your return.**

Name(s) as shown on return

Identifying number

Part I Current Year Credit

1	Total of qualified wages and qualified employee health insurance costs paid or incurred during the tax year	1												
2	Calendar year 1993 qualified wages and qualified employee health insurance costs (see instructions). If none, enter -0-	2												
3	Incremental increase. Subtract line 2 from line 1	3												
4	Current year credit. Multiply line 3 by 20% (.20) (see instructions)	4												
5	Indian employment credits from flow-through entities													
	<table><tr><td>If you are a—</td><td>Then enter total of current year Indian employment credit(s) from—</td></tr><tr><td>a Shareholder . . .</td><td>Schedule K-1 (Form 1120S), lines 12d, 12e, or 13 . . .</td></tr><tr><td>b Partner . . .</td><td>Schedule K-1 (Form 1065), lines 13c, 13d, or 14 . . .</td></tr><tr><td>c Beneficiary . . .</td><td>Schedule K-1 (Form 1041), line 13 . . .</td></tr><tr><td>d Patron . . .</td><td>Written statement from cooperative . . .</td></tr></table>	If you are a—	Then enter total of current year Indian employment credit(s) from—	a Shareholder . . .	Schedule K-1 (Form 1120S), lines 12d, 12e, or 13 . . .	b Partner . . .	Schedule K-1 (Form 1065), lines 13c, 13d, or 14 . . .	c Beneficiary . . .	Schedule K-1 (Form 1041), line 13 . . .	d Patron . . .	Written statement from cooperative . . .	5		
If you are a—	Then enter total of current year Indian employment credit(s) from—													
a Shareholder . . .	Schedule K-1 (Form 1120S), lines 12d, 12e, or 13 . . .													
b Partner . . .	Schedule K-1 (Form 1065), lines 13c, 13d, or 14 . . .													
c Beneficiary . . .	Schedule K-1 (Form 1041), line 13 . . .													
d Patron . . .	Written statement from cooperative . . .													
6	Total current year credit. Add lines 4 and 5. (S corporations, partnerships, estates, trusts, and cooperatives, see instructions.)	6												

Part II Tax Liability Limit (See **Who Must File Form 3800** to find out if you complete Part II or file Form 3800.)

7	Regular tax before credits: • Individuals. Enter amount from Form 1040, line 38 • Corporations. Enter amount from Form 1120, Schedule J, line 3 (or Form 1120-A, Part I, line 1) • Other filers. Enter regular tax before credits from your return	7		
8a	Credit for child and dependent care expenses (Form 2441, line 10)	8a		
b	Credit for the elderly or the disabled (Schedule R (Form 1040), line 20)	8b		
c	Mortgage interest credit (Form 8396, line 11)	8c		
d	Foreign tax credit (Form 1116, line 32, or Form 1118, Sch. B, line 12)	8d		
e	Possessions tax credit (Form 5735)	8e		
f	Credit for fuel from a nonconventional source	8f		
g	Qualified electric vehicle credit (Form 8834, line 19)	8g		
h	Add lines 8a through 8g	8h		
9	Net regular tax. Subtract line 8h from line 7	9		
10	Alternative minimum tax: • Individuals. Enter amount from Form 6251, line 28 • Corporations. Enter amount from Form 4626, line 15 • Estates and trusts. Enter amount from Form 1041, Schedule I, line 41	10		
11	Net income tax. Add lines 9 and 10	11		
12	Tentative minimum tax (see instructions): • Individuals. Enter amount from Form 6251, line 26 • Corporations. Enter amount from Form 4626, line 13 • Estates and trusts. Enter amount from Form 1041, Schedule I, line 37	12		
13	If line 9 is more than \$25,000, enter 25% (.25) of the excess (see instructions)	13		
14	Enter the greater of line 12 or line 13	14		
15	Subtract line 14 from line 11. If zero or less, enter -0-	15		
16	Indian employment credit allowed for current year. Enter the smaller of line 6 or line 15 here and on Form 1040, line 42; Form 1120, Schedule J, line 4d; Form 1120-A, Part I, line 2a; Form 1041, Schedule G, line 2c; or the applicable line of your return	16		

General Instructions

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

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 6 hr., 13 min.

Learning about the law or the form 1 hr., 41 min.

Preparing and sending the form to the IRS 1 hr., 52 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. You can write to the IRS at the address listed in the instructions for the tax return with which this form is filed.

Purpose of Form

Employers of American Indians who are qualified employees (see **Definitions**) use Form 8845 to claim the Indian employment credit.

In most cases, the credit is 20% of the excess of an employer's current year qualified wages and qualified employee health insurance costs over the sum of the corresponding amounts paid or incurred during calendar year 1993 by the employer (or predecessor). For purposes of the credit, the total amount of qualified wages and costs may not exceed \$20,000 for each employee.

Definitions

Qualified wages means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified employee (see below). It does **not** include wages attributable to services rendered during the 1-year period beginning with the day the employee starts work for the employer if any portion of such wages is used in figuring the work opportunity credit on Form 5884. Wages has the same meaning as given in section 51.

Qualified employee health insurance costs means any amount paid or incurred by an employer for health insurance to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee. No amount paid or incurred for health insurance under a salary reduction arrangement may be included.

Qualified employee means, for any tax period, any employee of an employer if the employee meets all the following tests:

1. The employee is an enrolled member of an Indian tribe or the spouse of an enrolled member of an Indian tribe. The tribe keeps the enrollment list.

2. Substantially all the services performed during that period by the employee for the employer are performed within an Indian reservation (defined below).

3. The employee's principal residence while performing such services is on or near the reservation where the services are performed.

However, the employee shall be treated as a qualified employee for any tax year of the employer only if more than 50% of the wages paid or incurred by the employer to the employee during the year are for services performed in the employer's trade or business. Each member of a controlled group must meet this requirement independently.

The following are **not** qualified employees:

- Any individual who bears any of the relationships described in sections 152(a)(1) through 152(a)(8) to, or is a dependent described in section 152(a)(9) of, the employer.
- If the employer is a corporation, any individual who bears any of the relationships described in section 152(a)(1) through 152(a)(8) to, or is a dependent described in section 152(a)(9) of, an individual who owns (or is considered to own under section 267(c)) more than 50% in value of the outstanding stock of the corporation.
- If the employer is an estate or trust, any individual who is a grantor, beneficiary, or fiduciary of the estate or trust (or a dependent, as described in section 152(a)(9), of that individual), or any individual who is a relative, as described in sections 152(a)(1) through 152(a)(8), of the grantor, beneficiary, or fiduciary of the estate or trust.
- If the employer is other than a corporation, estate, or trust, any individual who owns directly or indirectly more than 50% of the capital and profits interest, including constructive ownership, in the entity.
- Any person who owns (or is considered to own under section 318) more than 5% of the outstanding or voting stock of the employer or, if not a corporate employer, more than 5% of the capital or profits interest in the employer.
- Any individual who performs services involving the conduct of Class I, II, or III gaming as defined in section 4 of the Indian Gaming Regulatory Act and any individual performing any services in a building housing such gaming activity.

Indian tribe means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional or village corporation, as defined in, or established under, the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. See the Federal Register dated November 13, 1996 (61 FR 58211), for the most recent listing of federally recognized Indian tribes.

Indian reservation means a reservation as defined in section 3(d) of the Indian Financing Act of 1974 or section 4(10) of the Indian Child Welfare Act of 1978.

Early Termination of Employee

Generally, if the employer terminates a qualified employee less than 1 year after the date of initial employment:

1. No wages or qualified employee health insurance costs may be taken into account for the tax year the employment is terminated, and

2. Any credits allowed for prior tax years by reason of wages paid or incurred by the employer to that employee must be recaptured. Report the amount on the line for recapture taxes on the income tax return and write "45A" to the left of the entry. Also, any carryback or carryover of the credit is adjusted.

These rules do not apply if:

- The employee voluntarily quits.
- The employee is terminated because of misconduct.
- The employee becomes disabled. However, if the disability ends before the end of the first year of employment, the employer must offer reemployment to the former employee.

An employee is not treated as terminated if the corporate employer is acquired by another corporation covered under the rules in section 381(a) and the employee continues to be employed by the acquiring corporation. Nor is a mere change in the form of conducting the trade or business treated as a termination if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

Specific Instructions

Part I

Figure the current year credit for your trade or business on lines 1 through 4. Skip lines 1 through 4 if you are claiming only a credit that was allocated to you from a flow-through entity. The following rules apply to lines 1 and 2:

- An employee is not a qualified employee if the total amount of wages paid or incurred by the employer to the employee (whether or not for services within an Indian reservation) exceeds the amount determined at an annual rate of \$30,000. This wage limit may be adjusted for inflation for tax years beginning after 1996.
- The aggregate amount of qualified wages and qualified employee health insurance costs for each qualified employee for any tax year is limited to \$20,000.
- Members of a controlled group of corporations and businesses under common control are treated as a single employer in determining the credit.

Line 1.—Enter the total qualified wages and qualified employee health insurance costs paid or incurred for qualified employees during the tax year.

Line 2.—Enter the total qualified wages and qualified employee health insurance costs paid or incurred by the employer (or predecessor) for qualified employees during **calendar year 1993** (as if section 45A had been in effect during 1993). If none, enter zero.

For a short tax year, multiply the amount determined above by a fraction, the numerator of which is the number of days in the short tax year and the denominator of which is 365. Enter the result on line 2.

Line 4.—In most cases, you must reduce the deductions on your return for salaries and wages and health insurance costs by the line 4 credit amount. This reduction must be made 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 depreciable basis by the amount of the credit attributable to these costs.

Line 6.—If you have a credit from a passive activity, stop here and go to Form 3800.

S corporations and partnerships.—Allocate the line 6 credit among the shareholders or partners. Attach Form 8845 to Form 1120S or 1065 and show the credit for each shareholder or partner on Schedule K-1.

Estates and trusts.—The line 6 credit is allocated between the estate or trust and the beneficiaries in proportion to the income allocable to each. On the dotted line to the left of the amount on line 6, the estate or trust should enter its part of the total Indian employment credit. Label it "1041 PORTION" and use this amount in Part II (or on Form 3800, if required) to figure the credit to claim on Form 1041.

Cooperatives.—Most tax-exempt organizations cannot take the Indian employment credit, but a cooperative described in section 1381(a) takes the Indian employment credit to the extent it has tax liability. Any excess is shared among its patrons. But any credit recapture under item 2 of **Early Termination of Employee** applies as if the cooperative had claimed the entire credit and had not shared it among its patrons.

Who Must File Form 3800

If for this year you have more than one of the credits included in the general business credit listed below, or have a carryback or carryforward of any of the credits, or have an Indian employment credit from a passive activity, you must complete **Form 3800**, General Business Credit, instead of completing Part II of Form 8845 to figure the tax liability limitation.

The general business credit consists of the following credits:

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

The empowerment zone employment credit, while a component of the general business credit, is figured separately on Form 8844 and is never carried to Form 3800.

Part II

Line 12.—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 13.—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 16.—If you cannot use part of the credit because of the tax liability limitation (line 15 is smaller than line 6), carry it back 3 years and then forward for 15 years. See the separate Instructions for Form 3800 for details.

