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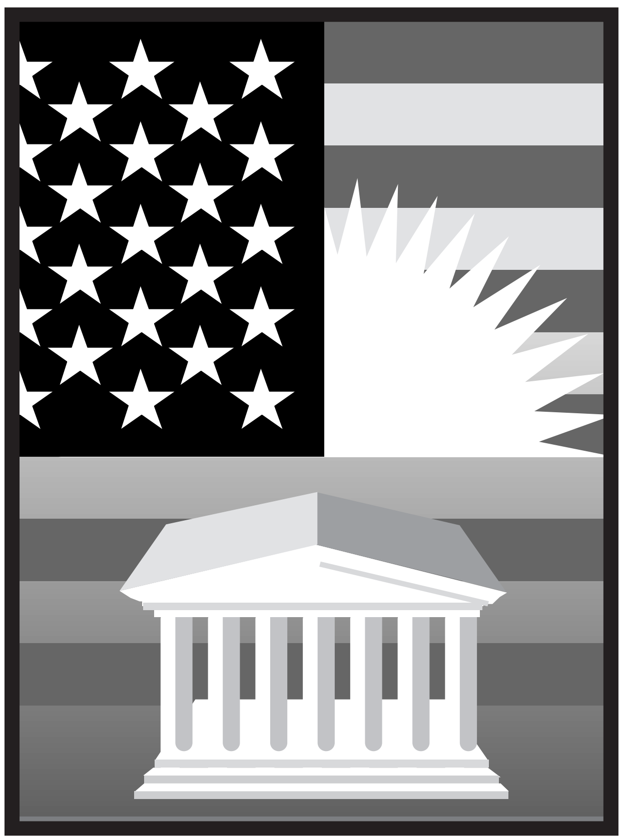
Foreign Tax Credit for Individuals

For use in preparing

1998 Returns



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Contents

Important Changes

Exemption from foreign tax credit limit. If your only foreign income is passive income and the total of all your foreign taxes shown on Forms 1099–DIV, 1099–INT, and similar statements is not more than $300 ($600 if married filing jointly), you can make an election not to be subject to the foreign tax credit limit. If you make this election, you can claim a foreign tax credit without filing Form 1116, *Foreign Tax Credit (Individual, Estate, Trust, or Nonresident Alien Individual).* See *How To Figure the Credit.*

Redetermination of foreign taxes. A new rule applies to redeterminations of foreign taxes that relate to tax years beginning after 1997. If you claim a credit for foreign taxes accrued in one tax year and you pay the foreign tax within 2 years after the close of that tax year, a redetermination of your U.S. tax liability is not required if the amount paid differs from the amount accrued only because of currency fluctuations. See *Foreign Tax Redeterminations* for more information.

Translating foreign currency into U.S. dollars. Generally, if you claim credit for taxes on an accrual basis, you must use the average exchange rate for the tax year to which the taxes relate. This rule applies to taxes paid or accrued in tax years beginning after 1997. See *Rate of exchange for foreign taxes paid* under *Foreign Currency and Exchange Rates* for more information.

Important Reminder

Change of address. If your address changes from the address shown on your last return, use Form 8822, *Change of Address,* to notify the Internal Revenue Service.

Introduction

If you paid or accrued foreign taxes to a foreign country on foreign source income and are subject to U.S. tax on the same income, you may be able to take either a credit or an itemized deduction for those taxes. Taken as a deduction, foreign income taxes reduce your U.S. taxable income. Taken as a credit, foreign income taxes reduce your U.S. tax liability.

In most cases, it is to your advantage to take foreign income taxes as a tax credit. The major scope of this publication is the foreign tax credit.

The publication discusses:

- Who can take the credit,
- What foreign taxes qualify for the credit, and
- How to figure the credit.

The amount of foreign tax credit you can take in a tax year is generally limited. The publication tells you how to carry back or carry over the unused foreign taxes to other tax years.

Unless you choose not to be subject to the foreign tax credit limit, you claim the credit by filing Form 1116 with your U.S income tax return. Two examples with filled-in Forms 1116 are provided at the end of the publication.

Useful Items

You may want to see:

Publication

- ☐ **54** Tax Guide for U.S. Citizens and Resident Aliens Abroad
- ☐ **519** U.S. Tax Guide for Aliens
- ☐ **570** Tax Guide for Individuals With Income From U.S. Possessions

Form (and Instruction)

- ☐ **1116** Foreign Tax Credit

See *How To Get More Information* near the end of this publication for information about getting these publications and this form.

What Is the Foreign Tax Credit?

The foreign tax credit is intended to relieve U.S. taxpayers of the double tax burden when their foreign source income is taxed both by the United States and the foreign country from which the income comes. Generally, if the foreign tax rate is higher than the U.S. rate, there will be no U.S. tax on the foreign income. If the foreign tax rate is lower than the U.S. rate, U.S. tax on the foreign income will be limited to the difference between the rates. Because the foreign tax credit applies only with respect to foreign source income, it cannot reduce U.S. taxes on U.S. source income.

Choice To Take Credit or Deduction

You can choose each tax year to take the amount of any qualified foreign taxes paid or accrued during the year as a foreign tax credit or as an itemized deduction. You can change your choice for each year's taxes.

To choose the foreign tax credit, you generally must complete Form 1116 and attach it to your U.S. tax return. However, you may qualify for an exception that allows you to claim the foreign tax credit without using Form 1116. See *How To Figure The Credit,* later. To choose to claim the taxes as an itemized deduction, use Schedule A (Form 1040), *Itemized Deductions.*

TIP *Figure your tax both ways— claiming the credit and claiming the deduction. Then fill out your return the way that benefits you most. See* Why Choose the Credit, *later.*

Choice Applies to All Qualified Foreign Taxes

As a general rule, you must choose to take either a credit or a deduction for all qualified foreign taxes. There are exceptions to this general rule, which are described under *Foreign taxes not allowed as a credit,* below.

Under the general rule, if you choose to take a credit for foreign taxes, you must take the credit for all qualified foreign taxes. You cannot deduct any of them. Conversely, if you choose to deduct qualified foreign taxes, you must deduct all of them. You cannot take a credit for any of them.

See, *What Foreign Taxes Qualify for the Credit,* later, for the meaning of qualified foreign taxes.

CAUTION *You cannot take a credit or a deduction for foreign taxes paid on income you exclude under the foreign earned income exclusion or the foreign housing exclusion.*

Foreign taxes not allowed as a credit. Even if you claim a credit for other foreign taxes, you can deduct any foreign tax that is not allowed as a credit because:

1) You participated in or cooperated with an international boycott (discussed later under *International Boycott),*
2) You paid the tax to one of certain countries for which a credit is not allowed because these countries provide support for acts of international terrorism, or because the United States does not have diplomatic relations with them or recognize their governments, or
3) You paid withholding tax on dividends from foreign corporations whose stock you did not hold for the required period of time.

For more information on items (2) and (3), see the discussion later under *Foreign Taxes for Which You Cannot Take a Credit.*

Foreign taxes that are not income taxes. Generally, foreign taxes that are not income taxes, such as real and personal property taxes, do not qualify for the foreign tax credit. But you may be able to deduct these taxes even if you claim the foreign tax credit for foreign income taxes.

You generally can deduct these other taxes only if they are expenses incurred in a trade or business or in the production of income. However, you can deduct foreign real property taxes that are not expenses incurred in your trade or business as an itemized deduction on Schedule A (Form 1040).

Carrybacks and carryovers. There is a limit on the credit you can claim in a tax year. If your qualified foreign taxes exceed the credit limit, you can carry over or carry back the excess to another tax year. If you deduct qualified foreign taxes in a tax year, you cannot use a carryback or carryover in that year. That is because you cannot take both a deduction and a credit for qualified foreign taxes in the same tax year.

For more information on the limit, see *How to Figure the Credit,* later. For more information on carrybacks and carryovers, see *Carryback and Carryover,* later.

Making or Changing Your Choice

You can make or change your choice to claim a deduction or credit at any time during the period ***within 10 years*** from the due date for filing the return for the tax year for which you make the claim. You make or change your choice on your tax return (or on an amended return) for the year your choice is to be effective.

Example. You paid foreign taxes for the last 13 years and chose to deduct them on your U.S. income tax returns. You were timely in both filing your return and paying your U.S. tax liability. In February 1998 you file an amended return for tax year 1987 choosing to take a credit for your 1987 foreign taxes because you now realize that the credit is more advantageous than the deduction for that year. Because your return for 1987 was not due until April 15, 1988, this choice is timely (within 10 years) and you are able to take a credit for the 1987 foreign taxes against your 1987 U.S. tax liability.

Because there is a limit on the credit for your 1987 foreign tax, you have unused 1987 foreign taxes. Ordinarily, you first carry back unused foreign taxes and claim them as a credit in the 2 preceding tax years. If you are unable to claim all of them in those 2 years, you carry them forward to the 5 years following the year in which they arose.

Because you originally did not choose to take a credit for your foreign taxes and the time (10 years) for changing the choice for 1985 and 1986 has passed, you cannot carry the unused 1987 foreign taxes back as credits against your U.S. income tax for tax years 1985 and 1986.

Because 10 years have not passed since the due date for your 1988 through 1992 income tax returns, you can still choose to carry ***forward*** any unused 1987 foreign taxes. However, you must reduce the unused 1987 foreign taxes that you carry forward by the amount that would have been allowed as a carryback if you had timely carried back the foreign tax to tax years 1985 and 1986.

Why Choose the Credit

Although no one rule covers all situations, it is generally better to take a credit for qualified foreign taxes than to deduct them as an itemized deduction. This is because:

1) A credit reduces your actual U.S. income tax on a dollar-for-dollar basis, while a

deduction reduces only your income subject to tax,

2) You can choose to take the foreign tax credit even if you do not itemize your deductions. You then are allowed the standard deduction in addition to the credit, and

3) If you choose to take a credit for the foreign taxes paid, and the taxes paid exceed the credit limit for the tax year, you can carry over or carry back the excess to another tax year. (See *Limit on the Credit,* discussed later under *How To Figure the Credit.)*

Example 1. For 1998, you and your spouse have adjusted gross income of $50,000, including $20,000 of dividend income from foreign sources. You file a joint return and can claim two $2,700 exemptions. You had to pay $2,000 in foreign income taxes on the dividend income from foreign sources. If you take the foreign taxes as an itemized deduction, your total itemized deductions are $10,000. Your taxable income then is $34,600 and your tax is $5,194.

If you take the credit instead, your itemized deductions are only $8,000. Your taxable income then is $36,600, and your tax before the credit is $5,494. After the credit, however, your tax is only $3,494. Therefore, you have an additional tax benefit of $1,700 ($5,194 – $3,494) by taking the credit.

Example 2. In 1998 you receive investment income of $5,000 from a foreign country, which imposes a tax of $3,500 on that income. You report on your U.S. return this income as well as $34,000 of income from U.S. sources. You are single, entitled to one $2,700 exemption, and have other itemized deductions of $4,400. If you deduct the foreign tax on your U.S. return, your taxable income is $28,400 ($5,000 + $34,000 – $2,700 – $4,400 – $3,500) and your overall tax bill is $4,664.

If you take the credit instead (you can take a credit of only $724 because of limits discussed later), your taxable income is $31,900 ($5,000 + $34,000 – $2,700 – $4,400) and your tax before the credit is $5,644. Your tax after the credit is $4,920 ($5,644 – $724), which is $256 more than if you deduct the foreign tax.

If you choose the credit, you will have unused foreign taxes of $2,776 ($3,500 – $724). When deciding whether to take the credit or the deduction this year, you will need to consider whether you can benefit from a carryback or carryover of that unused foreign tax.

Credit for Taxes Paid or Accrued

You can claim the credit for a qualified foreign tax in the tax year in which you pay or accrue it. The tax year referred to is the tax year for which your U.S. return is filed.

When accrued. If you use an accrual method of accounting, you can claim the credit only in the year in which you accrue the tax. You are using an accrual method of accounting if you report income when you earn it, rather than when you receive it, and you deduct your expenses when you incur them, rather than when you pay them.

Foreign taxes generally accrue when all the events have taken place that fix the amount of the tax and your liability to pay it. If you are contesting your foreign tax liability, you cannot accrue it and take a credit until the amount of foreign tax due is finally determined. However, if you choose to pay the tax liability you are contesting, you can take a credit for the amount you pay before a final determination of foreign tax liability is made. Once your liability is determined, the foreign tax credit is allowable for the year to which the foreign tax relates. If the amount of foreign taxes taken as a credit differs from the final foreign tax liability, you must make an adjustment to the credit, as discussed later under *Foreign Tax Redeterminations.*

When paid. If you use the cash method of accounting, you can choose to take the credit either in the year you pay the tax or in the year you accrue it. You are using the cash method of accounting if you report income in the year you actually or constructively receive it, and deduct expenses in the year you pay them.

Choosing to accrue taxes. Even if you use the cash method of accounting, you can choose to take a credit for foreign taxes in the year they accrue. You make the choice by checking the box in Part II of Form 1116. Once you make that choice, you must follow it in all later years and take a credit for foreign taxes in the year they accrue.

In addition, the choice to accrue foreign taxes applies to ***all*** foreign taxes qualified for the credit. You cannot take a credit for some foreign taxes when paid and take a credit for others when accrued.

If you make the choice to accrue foreign taxes and pay them in a later year, you cannot claim a deduction for any part of the previously accrued taxes.

Cash method used in earlier year. If, in earlier years, you took the credit based on taxes paid, and this year you choose to take the credit based on taxes accrued, you may be able to take the credit this year for taxes from more than one year.

Example. Last year you used the cash method of crediting foreign taxes. This year you chose to use the accrual method. During the year you paid foreign income taxes owed for last year. You also accrued foreign income taxes for this year that you did not pay by the end of the year. You can base the credit on your return for this year on both last year's taxes that you paid and this year's taxes that you accrued.

You may have to post a bond. If you claim a credit for taxes accrued but not paid, you may have to post an ***income tax bond*** to guarantee your payment of any tax due in the event the amount of foreign tax paid differs from the amount claimed.

The IRS can request this bond at any time without regard to the *Time Limit on Tax Assessment,* discussed later.

Foreign Tax Redeterminations

A foreign tax redetermination is any change in your foreign tax liability that may affect your U.S. foreign tax credit claimed.

The time of the credit remains the year to which the foreign taxes paid or accrued relate, even if the change in foreign tax liability occurs in a later year.

If a foreign tax redetermination occurs, a redetermination of your U.S. tax liability is required in the following situations.

Tax years beginning before 1998. For tax years beginning before 1998, a redetermination of your U.S. tax liability is required if:

- You must pay additional foreign taxes,
- You receive a refund of foreign taxes paid, or
- There is a change in the dollar amount of your foreign tax credit because of differences in the exchange rate at the time the foreign taxes were accrued and the time they were paid.

See *Translating foreign currency into U.S. dollars* later under *Foreign Currency and Exchange Rates.*

When redetermination of tax is not required. A redetermination is not required if the change is due solely to an exchange rate fluctuation and the change in foreign tax liability for the tax year is less than the ***smaller*** of:

1) $10,000, or

2) 2% of the total dollar amount of the foreign tax initially accrued for that foreign country.

In this case, you must adjust your U.S. tax in the tax year in which the accrued foreign taxes are paid.

Tax years beginning after 1997. For tax years beginning after 1997, a redetermination of your U.S. tax liability is required if:

1) The accrued taxes when paid differ from the amount you claimed as a credit. But, see *When redetermination of tax is not required* later,

2) The accrued taxes you claimed as a credit in one tax year are not paid within two years after the end of that tax year, or

3) The foreign taxes you paid are refunded in whole or in part by the foreign taxing authority.

If (2) above applies to you, you will not be allowed a credit for the unpaid taxes until you pay them. When you pay the accrued taxes you must translate them into U.S. dollars using the exchange rate as of the date they were paid. The foreign tax credit is allowed for the year to which the foreign tax relates. See *Rate of exchange for foreign taxes paid,* later, under *Foreign Currency and Exchange Rates.*

When redetermination of tax is not required. If the accrued taxes when paid differ from the amount you claimed as a credit only because of the fluctuation in the currency exchange rate, a redetermination is not required if the amount is paid within two years after the close of the tax year to which the taxes relate.

Notice to the Internal Revenue Service of redetermination. You must file Form 1040X, *Amended U.S. Individual Income Tax Return,* and a revised Form 1116 for the tax year affected by the redetermination. The IRS will redetermine your U.S. tax liability for the year or years affected.

If you pay less tax than you originally claimed credit for, you must file Form 1040X and a revised Form 1116 within 180 days after the redetermination occurred. There is no limit on the time the IRS has to redetermine and assess the correct U.S. tax due. If you pay more tax than you originally claimed a credit for, see *Time Limit on Refund Claims,* later.

Failure-to-notify penalty. If you fail to notify the IRS of a foreign tax redetermination and cannot show reasonable cause for the failure, you may have to pay a penalty.

For each month, or part of a month, that the failure continues, you pay a penalty of 5% of the tax due resulting from a redetermination of your U.S. tax. This penalty cannot be more than 25% of the tax due.

Foreign tax refund. If you receive a foreign tax refund without interest from the foreign government, ***you will not have to pay interest*** on the amount of tax due resulting from the adjustment to your U.S. tax for the time before the date of the refund.

However, if you receive a foreign tax refund with interest, ***you must pay interest*** to the IRS up to the amount of the interest paid to you by the foreign government. The interest you must pay cannot be more than the interest you would have had to pay on taxes that were unpaid for any other reason for the same period.

Foreign tax imposed on foreign refund. If you receive a foreign tax refund that is taxed by the foreign country, you cannot take a separate credit or deduction for this additional foreign tax. However, when you refigure the credit taken for the original tax, reduce the refund by the foreign tax paid on the refund.

Example. You paid a foreign income tax of $3,000 in 1996, and received a foreign tax refund of $500 in 1998 on which a foreign tax of $100 was imposed. Because you can reduce your refund by the foreign tax imposed on it, you must make an adjustment of only $400 to the credit you took against your 1996 U.S. income tax.

Time Limit on Refund Claims

You have 10 years to file a claim for refund of U.S. tax if you find that you paid or accrued a larger foreign tax than you claimed a credit for. The 10-year period begins the day after the regular due date for filing the return for the year in which the taxes were actually paid or accrued.

You have 10 years to file your claim regardless of whether you claim the credit on taxes paid or taxes accrued. The 10-year period applies to claims for refund or credit based on:

1) Fixing math errors in figuring qualified foreign taxes,

2) Reporting qualified foreign taxes not originally reported on the return, or

3) Any other change in the size of the credit (including one caused by correcting the foreign tax credit limit).

The special 10-year period also applies to making or changing your choice of whether to claim a deduction or credit for foreign taxes. See *Making or Changing Your Choice,* discussed earlier under *Choice To Take Credit or Deduction.*

Who Can Take the Credit?

If you have paid foreign income tax and are subject to U.S. tax on foreign source income, you may be able to take a foreign tax credit.

Excluded income. You cannot take a credit for foreign income taxes you pay or accrue on income that you exclude from gross income under the foreign earned income or foreign housing exclusion. See *Taxes on excluded income,* later, under *Reduction in Total Foreign Taxes Available for Credit.* These exclusions are discussed in detail in Publication 54.

U.S. Citizens

If you are a U.S. citizen, you are taxed by the United States on your worldwide income wherever you live. You are normally entitled to take a credit for foreign taxes you pay or accrue.

Citizen of U.S. possession. If you are a citizen of a U.S. possession (except Puerto Rico), not otherwise a citizen of the United States, and not a resident of the United States, you cannot take a foreign tax credit.

Resident of American Samoa. If you are a bona fide resident of American Samoa and exclude income from sources in American Samoa, Guam, or the Northern Mariana Islands, you cannot take a credit for the taxes you pay or accrue on the excluded income. For more information on this exclusion, see Publication 570.

Resident Aliens

If you are a resident alien of the United States, you can take a credit for foreign taxes subject to the same general rules as U.S. citizens. If you are a bona fide resident of Puerto Rico for the entire tax year, you also come under the same rules.

Usually, you can take a credit ***only*** for those foreign taxes imposed on your foreign source income. You must have actually or constructively received the income while you had resident alien status.

For information on alien status, see Publication 519.

If you exclude income under the foreign earned income exclusion or the foreign housing exclusion, you cannot take a foreign tax credit for foreign income taxes paid or accrued on the excluded income. See *Taxes on excluded income,* later, under *Reduction in Total Foreign Taxes Available for Credit.* For information on alien status, see Publication 519.

Nonresident Aliens

As a nonresident alien, you can claim a credit for taxes paid or accrued to a foreign country or possession of the United States ***only*** on foreign source or possession source income that is effectively connected with a trade or business in the United States. For information on alien status and effectively connected income, see Publication 519.

Who Paid or Accrued the Foreign Tax?

Generally, you can claim the credit only if ***you*** paid or accrued the foreign tax. However, the paragraphs that follow describe some instances in which you can claim the credit even if you did not directly pay or accrue the tax yourself.

Joint return. If you file a joint return, you can claim the credit based on the total of any foreign income tax paid or accrued by you and your spouse.

Partner or S corporation shareholder. If you are a member of a partnership, or a shareholder in an S corporation, you can claim the credit based on your proportionate share of the foreign income taxes paid or accrued by the partnership or the S corporation. These amounts will be shown on the Schedule K–1 you receive from the partnership or S corporation. However, if you are a shareholder in an S corporation that in turn owns stock in a foreign corporation, you cannot claim a credit for your share of foreign taxes paid by the foreign corporation.

Beneficiary. If you are a beneficiary of an estate or trust, you may be able to claim the credit based on your proportionate share of foreign income taxes paid or accrued by the estate or trust. This amount will be shown on the Schedule K–1 you receive from the estate or trust. However, you must show that the tax was imposed on income of the estate and not on income received by the decedent.

Investment company shareholder. If you are a shareholder of a regulated investment company (mutual fund) or a foreign investment company, you may be able to claim the credit based on your share of foreign income taxes paid by the company if it chooses to pass the credit on to its shareholders. You should receive from the mutual fund a Form 1099–DIV, or similar statement, showing the foreign country or U.S. possession, your share of the income from that country, and your share of the foreign taxes paid to that country. If you do not receive this information, you will need to contact the company.

Controlled foreign corporation shareholder. If you are a shareholder of a controlled foreign corporation and choose to be taxed at corporate rates on the amount you must include in gross income from that corporation, you can claim the credit based on your share of foreign taxes paid or accrued by the controlled foreign corporation. If you make this election, you must claim the credits by filing Form 1118, *Foreign Tax Credit—Corporations.*

Controlled foreign corporation. A controlled foreign corporation is a foreign corporation in which U.S. shareholders own more than 50% of the voting power or value of the stock. You are considered a U.S. shareholder if you own, including constructive ownership, 10% or more of the total voting power of all classes of the foreign corporation's stock. See Internal Revenue Code sections 951(b) and 958(b) for more information.

What Foreign Taxes Qualify for the Credit?

Generally, only income, war profits, and excess profits taxes (income taxes) paid or accrued during the tax year to a foreign country (defined later) or a U.S. possession qualify for the foreign tax credit. However, under certain conditions a tax paid or accrued to a foreign country or U.S. possession in lieu of a tax on income, war profits, or excess profits will qualify. (See *Taxes in Lieu of Income Taxes,* later.)

Whether an amount imposed by a foreign country (foreign charge or levy) qualifies for credit depends on the characteristics of the charge involved.

As a general rule, to qualify for the credit, the foreign tax must have been imposed on you and you must have paid or accrued the foreign tax. You cannot shift the right to claim the credit by contract or other means unless specifically provided by foreign law. A qualified tax that is deducted from wages is considered to be imposed upon the recipient of the wages.

Amount of foreign tax that qualifies. The amount of qualified foreign tax that you can use each year is not necessarily the amount of tax withheld by the foreign country. The amount of qualified foreign tax is only the amount of foreign income tax that is the legal and actual tax liability that you paid or accrued during the year.

Foreign tax refund. You cannot take a foreign tax credit for income taxes paid to a foreign country if it is reasonably certain the amount would be refunded, credited, rebated, abated, or forgiven if you made a claim.

For example, the United States has tax treaties or conventions with many countries allowing U.S. citizens and residents reductions in the rates of tax of those foreign countries. However, some treaty countries require U.S. citizens and residents to pay the tax figured without regard to the lower treaty rates and then claim a refund for the amount by which the tax actually paid is more than the amount of tax figured using the lower treaty rate. The taxpayer's qualified foreign tax is the amount figured using the lower treaty rate and not the amount actually paid, since the taxpayer can claim a refund for the excess tax paid.

Subsidy received. If a foreign country returns your foreign tax payments to you in the form of a subsidy, you cannot claim these payments as taxes qualified for the foreign tax credit. A subsidy can be provided by any means but must be determined, directly or indirectly, in relation to the amount of tax, or to the base used to figure the tax.

The term “subsidy” includes any type of benefit. Some ways of providing a subsidy are refunds, credits, deductions, payments or discharges of obligations. The credit is also not allowed if the subsidy is given to a person related to you, or persons who participated in a transaction, or a related transaction, with you.

Shareholder receiving refund for corporate tax in integrated system. Under some foreign tax laws and treaties, a shareholder is considered to have paid part of the tax that is imposed on the corporation. You may be able to claim a refund of these taxes from the foreign government. You must include the refund (including any amount withheld) in your income in the year received. Any tax withheld from the refund is a qualified foreign tax.

Example. You are a shareholder of a U.K. corporation. You receive a $100 refund of the tax paid to the United Kingdom by the corporation on the earnings distributed to you as a dividend. The U.K. government imposes a 15% withholding tax ($15) on the refund you received. You receive a check for $85. You include $100 in your income. The $15 of tax withheld is a qualified foreign tax.

Foreign country. A foreign country includes any foreign state or political subdivision thereof. Income, war profits, and excess profits taxes paid or accrued to a foreign city or province qualify for the U.S. foreign tax credit.

A foreign country also includes ***the continental shelf*** of a foreign country if the country has exclusive rights under international law over the exploration and exploitation of natural resources there, and exercises taxing jurisdiction over that exploration and exploitation. This rule for continental shelf areas is limited to activities involving natural resources.

U.S. possessions. For foreign tax credit purposes, all qualified taxes paid to possessions of the United States are considered foreign taxes. For this purpose, U.S. possessions include Puerto Rico, Guam, the Northern Mariana Islands, and American Samoa.

When the term “foreign country” is used in this publication, it includes U.S. possessions unless otherwise stated.

Penalties and interest. Amounts paid to a foreign government to satisfy a liability for interest, fines, penalties, or any similar obligation are not taxes and do not qualify for the credit.

Tax Must Be Based on Income

To qualify for the credit, the foreign levy must be an income tax (or a tax in lieu of income tax). Simply because the levy is called an income tax by the foreign taxing authority does not make it an income tax for this purpose.

Income tax. A foreign levy is an income tax only if it meets both of these tests.

1) It is a tax; that is, you have to pay it and you get no specific economic benefit (discussed below) from paying it.
2) The predominant character of the tax is that of an income tax in the U.S. sense.

A foreign levy may meet these requirements even if the foreign tax law differs from U.S. tax law. The foreign law may include in income items that the United States does not include, or it may allow certain exclusions or deductions that are not allowed under the U.S. income tax law.

Specific economic benefit. Generally, you get a specific economic benefit if you receive, or are considered to receive, an economic benefit from the foreign country imposing the levy, ***and***:

1) If there is a generally imposed income tax, the economic benefit is not available on substantially the same terms to all persons subject to the income tax, or
2) If there is no generally imposed income tax, the economic benefit is not made available on substantially the same terms to the population of the foreign country in general.

However, see the exception discussed later under *Pension, unemployment, and disability fund payments.*

Economic benefits. Economic benefits include:

- Goods,
- Services,
- Fees or other payments,
- Rights to use, acquire, or extract resources, patents, or other property the foreign country owes or controls, and
- Discharges of contractual obligations.

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Generally, the right or privilege merely to engage in business is not an economic benefit.

You are considered to receive an economic benefit if you have a business transaction with a person who receives a specific economic benefit from the foreign country and, under the terms and conditions of the transaction, you receive directly or indirectly some part of the benefit.

Dual-capacity taxpayers. If you are subject to a foreign country's levy and you also receive a specific economic benefit from that foreign country, you are a “dual-capacity taxpayer.” As a dual-capacity taxpayer, you cannot claim a credit for any part of the foreign levy, unless you establish that the amount paid under a distinct element of the foreign levy is a tax, rather than a compulsory payment for a direct or indirect specific economic benefit.

For more information on how to establish amounts paid under separate elements of a levy, write to:

Internal Revenue Service
Assistant Commissioner (International)
Attention: OP:IN:D:CS
950 L'Enfant Plaza South, SW
Washington, DC 20024

Pension, unemployment, and disability fund payments. A foreign tax imposed on an individual to pay for retirement, old-age, death, survivor, unemployment, illness, or disability benefits, or for similar purposes, is not payment for a specific economic benefit if the amount of the tax does not depend on the age, life expectancy, or similar characteristics of that individual.

No deduction or credit is allowed, however, for ***social security taxes*** paid or accrued to a foreign country with which the United States has a social security agreement. For more information about these agreements, see Publication 54 or Publication 519.

Soak-up taxes. A foreign tax is not predominantly an income tax and does not qualify for credit to the extent it is a soak-up tax. A tax is a soak-up tax to the extent that liability for it depends on the availability of a credit for it against income tax imposed by another country. This rule applies only if and to the extent that the foreign tax would not be imposed if the credit were not available.

Taxes based on income. Foreign taxes on wages, dividends, interest, and royalties generally qualify for the credit. Furthermore, foreign taxes on income can qualify even though they are not imposed under an income tax law.

Taxes not based on income. Foreign taxes based on gross receipts, rather than on realized net income, do not qualify ***unless*** they are imposed in lieu of an income tax, as discussed next. Taxes based on assets, such as property taxes, do not qualify for the credit.

Taxes in Lieu of Income Taxes

A tax paid or accrued to a foreign country qualifies for the credit if it is imposed in lieu of an income tax otherwise generally imposed. A foreign levy is a tax in lieu of an income tax only if:

1) It is not payment for a specific economic benefit as discussed earlier, and

2) It meets the substitution requirements; that is, the tax is imposed in place of, and not in addition to, an income tax otherwise generally imposed.

See also the earlier discussion of soak-up taxes.

Since a tax in lieu of an income tax does not have to be based on realized net income, a foreign tax imposed on gross income, gross receipts or sales, or the number of units produced or exported can qualify for the credit.

Reduction in Total Foreign Taxes Available for Credit

You must reduce your total foreign taxes that are available for the credit under the following circumstances.

Taxes on excluded income. You must reduce your foreign taxes available for the credit by the amount of those taxes paid or accrued on income that is excluded from U.S. income under the foreign earned income exclusion or the foreign housing exclusion. See Publication 54 for more information on the foreign earned income and housing exclusions.

Wages completely excluded. If your wages are completely excluded, you cannot take a credit for any of the foreign taxes paid or accrued on these wages.

Wages partly excluded. If only part of your wages is excluded, you cannot take a credit for the foreign income taxes allocable to the excluded part. You find the amount allocable to your excluded wages by multiplying the foreign tax paid or accrued on foreign earned income received or accrued during the tax year by a ***fraction***.

The ***numerator*** of the fraction is your excluded foreign earned income for the tax year minus otherwise deductible expenses definitely related and properly apportioned to that income (not including the foreign housing deduction).

The ***denominator*** is your total foreign earned income received or accrued during the tax year minus all deductible expenses allocable to that income (including the foreign housing deduction). If the foreign law taxes foreign earned income and some other income (for example, earned income from U.S. sources or a type of income not subject to U.S. tax), and the taxes on the other income cannot be segregated, the denominator of the fraction is the total amount of income subject to the foreign tax minus deductible expenses allocable to that income.

Example. You are a U.S. citizen and a cash basis taxpayer, employed by Company X and living in Country A. Your records show the following:

Foreign earned income received	$120,000
Unreimbursed business travel expenses	20,000
Income tax paid to Country A	30,000
Exclusion of foreign earned income and housing allowance	77,225

Because you can exclude part of your wages, you cannot claim a credit for part of the foreign taxes. To find that part, do the following.

First, find the amount of business expenses allocable to excluded wages and therefore not deductible. To do this, multiply the otherwise deductible expenses by a fraction. That fraction is the excluded wages over your foreign earned income.

$$\$20{,}000 \times \frac{\$77{,}225}{\$120{,}000} = \$12{,}871$$

Next, find the numerator of the fraction by which you will multiply the foreign taxes paid. To do this, subtract business expenses allocable to excluded wages ($12,871) from excluded wages ($77,225). The result is $64,354.

Then, find the denominator of the fraction by subtracting all your deductible expenses from all your foreign earned income ($120,000 - $20,000 = $100,000).

Finally, multiply the foreign tax you paid by the resulting fraction.

$$\$30{,}000 \times \frac{\$64{,}354}{\$100{,}000} = \$19{,}306$$

The amount of Country A tax you cannot take a credit for is $19,306.

Taxes on foreign mineral income. You must reduce any taxes paid or accrued to a foreign country or possession on mineral income from that country or possession if you were allowed a deduction for percentage depletion for any part of the mineral income.

Taxes from international boycott operations. In general, if you participate in or cooperate with an international boycott, your foreign taxes resulting from the boycott activity will reduce the total taxes available for credit. For more information, see the discussion later under *International Boycott.*

Taxes of persons controlling foreign corporations. If you had control of a foreign corporation for an uninterrupted period of at least 30 days during the annual accounting period of that corporation, you may have to file an annual information return on **Form 5471,** *Information Return of U.S. Persons With Respect To Certain Foreign Corporations.* Under this rule, you generally had control of a foreign corporation if at any time during the corporation's tax year you owned:

- Stock possessing more than 50% of the total combined voting power of all classes of stock entitled to vote, or
- More than 50% of the total value of shares of all classes of stock of the foreign corporation.

Penalty for not filing. If you fail to file the return by the due date, you must reduce by 10% all foreign taxes that may be used for the foreign tax credit. You then subtract from this 10% reduction any dollar penalty for failure to furnish this information. Generally, the dollar penalty is $10,000 for each annual accounting period for which you fail to furnish information. Additional penalties apply if the failure continues for 90 days or more.

Foreign Taxes for Which You Cannot Take a Credit

You cannot claim a foreign tax credit for foreign income taxes paid or accrued under the following circumstances. However, you can claim a deduction for these taxes. See *Choice To Take Credit or Deduction,* earlier.

Taxes Imposed By Certain Foreign Countries

You cannot claim a foreign tax credit for income taxes paid or accrued to any country if the income giving rise to the tax is for a period (the sanction period) during which:

1) The Secretary of State has designated the country as one that repeatedly provides support for acts of international terrorism,

2) The United States has severed or does not conduct diplomatic relations with the country, or

3) The United States does not recognize the country's government, unless that government is eligible to purchase defense articles or services under the Arms Export Control Act.

Table 1 lists countries that meet this description for 1998.

Table 1. **Countries That Do Not Qualify for a Foreign Tax Credit in 1998**

Cuba	North Korea
Iran	Sudan
Iraq	Syria
Libya	

Income that is paid through one or more entities is treated as coming from a foreign country listed in *Table 1* if the original source of the income is from one of the listed countries.

Limit on credit. In figuring the foreign tax credit limit, discussed later, income for the sanction period of a country listed in *Table 1* is treated as a separate category of foreign income. This will prevent the foreign taxes for the sanction period of these countries from being used as a credit against the U.S. tax.

Example. You lived and worked in Libya until August, when you were transferred to Italy. You paid taxes to each country on the income earned in that country. You cannot claim a foreign tax credit for the foreign taxes paid on the income earned in Libya. When figuring your foreign tax credit limit, you must treat the income earned in Libya as a separate category of foreign income. You cannot take a credit for taxes paid on the income earned in Libya, but that income is taxable in the United States.

Figuring the credit when a sanction ends. *Table 2* lists the countries for which sanctions have been lifted. For any of these countries, you can claim a foreign tax credit for the taxes paid or accrued to that country on the income for the period that begins after the end of the sanctioned period.

Example. The sanctions against Country X were lifted on July 31. On August 19, you receive a distribution from a mutual fund of Country X income. The fund paid Country X income tax for you on the distribution. Because the distribution was made after the sanction was lifted, you may include the foreign tax paid on the distribution to compute your foreign tax credit.

Amounts for the nonsanctioned period. If a sanction period ends during your tax year and you are not able to determine the actual income and taxes for the nonsanctioned period, you can allocate amounts to that period based on the number of days in the period that fall in your tax year. Multiply the income or taxes for the year by the following fraction to determine the amounts allocable to the nonsanctioned period.

$$\frac{\text{Number of nonsanctioned days in year}}{\text{Number of days in year}}$$

Example. You are a calendar year filer and received $20,000 of income from Country X in 1998 on which you paid tax of $4,500. Sanctions against Country X were lifted on July 11, 1998. You are unable to determine how much of the income or tax is for the nonsanctioned period. Because your tax year starts on January 1, and the Country X sanction was lifted on July 11, 1998, 173 days of your tax year are in the nonsanctioned period. You would compute the income for the nonsanctioned period as follows:

$$\frac{173 \text{ days}}{365 \text{ days}} \times \$20{,}000 = \$9{,}479$$

You would compute the tax for the nonsanctioned period as follows:

$$\frac{173 \text{ days}}{365 \text{ days}} \times \$4{,}500 = \$2{,}133$$

To figure your foreign tax credit, you would use $9,479 as the income from Country X and $2,133 as the tax.

Further information. The rules for figuring the foreign tax credit after a country's sanction period ends are more fully explained in Revenue Ruling 92–62, 1992–2 Cumulative Bulletin, page 193. This Cumulative Bulletin can be found in many libraries and IRS offices.

Table 2. **Countries Removed From the Sanctioned List**

Country	Sanction Period: Starting Date	Sanction Period: Ending Date
Afghanistan	January 1, 1987	August 4, 1994
Albania	January 1, 1987	March 15, 1991
Angola	January 1, 1987	June 18, 1993
Cambodia	January 1, 1987	August 4, 1994
South Africa	January 1, 1988	July 10, 1991
Vietnam	January 1, 1987	July 21, 1995
People's Democratic Republic of Yemen	January 1, 1987	May 22, 1990

Taxes Imposed on Certain Dividends

You cannot claim a foreign tax credit for withholding tax on dividends paid or accrued after September 4, 1997, if the dividends are:

1) On stock you held for less than 16 days during the holding period described below, or

2) For a period or periods totaling more than 366 days on preferred stock you held for less than 46 days during the holding period described below.

Regardless of your holding period, you cannot claim the credit to the extent you have an obligation under a short sale or otherwise, to make payments related to the dividend for positions in substantially similar or related property.

Withholding tax. For this purpose, withholding tax includes any tax determined on a gross basis. It does not include any tax which is in the nature of a prepayment of a tax imposed on a net basis.

Holding period. To claim the credit for taxes on dividends, you must satisfy the holding period. You must hold the stock for at least 16 days within the 30-day period that begins 15 days before the ex-dividend date. If a preferred stock dividend is for a period or periods totaling more than 366 days, you must hold the preferred stock for at least 46 days within the 90-day period that begins 45 days before the ex-dividend date. If the dividend is not for more than 366 days, the general 16-day rule, described above applies to the preferred stock. When figuring the holding period, do not count the day you acquired the stock or any days in which you are protected from risk of loss (but do count the day you sold the stock).

Ex-dividend date. The ex-dividend date is the first date on which, if the stock were sold, the dividend would be payable to the seller rather than the buyer.

Example 1. You bought common stock from a foreign corporation on November 3. You sold the stock on November 19. You received a dividend on this stock, because you owned it on the ex-dividend date of November 5. To claim the credit, you must have held the stock for at least 16 days within the 30-day period that began on October 21 (15 days before the ex-dividend date). Since you held the stock for 16 days, from November 4 until November 19, you are entitled to the credit.

Example 2. The facts are the same as in example 1 except that you sold the stock on November 14. You held the stock for only 11 days. You are not entitled to the credit.

Exception. If you are a securities dealer who actively conducts business in a foreign country, you may be able to claim a foreign tax credit for qualified taxes paid on dividends regardless of your holding period. See section 901(k)(4) of the Internal Revenue Code for information.

How To Figure the Credit

As already indicated, you can claim a foreign tax credit only for foreign taxes on income, war profits, or excess profits, or taxes in lieu of those taxes. In addition, there is a limit on the amount of the credit that you can claim. You figure this limit and your credit on Form 1116. Your credit is the amount of foreign tax you paid or accrued or, if smaller, the limit.

If you have foreign taxes available for credit but you cannot use them because of the limit, you may be able to carry them back to the 2 previous tax years and forward to the next 5 tax years. See *Carryback and Carryover* later.

Also, certain tax treaties have special rules that you must consider when figuring your foreign tax credit. See *Tax Treaties,* later.

Exemption from foreign tax credit limit. You will not be subject to this limit and will be able to claim the credit without using Form 1116 if the following requirements are met.

1) You are an individual.

2) Your only foreign source gross income for the tax year is passive income (see *Passive income* later, under *Separate Limit Income*).

3) Your qualified foreign taxes for the tax year are not more than $300 ($600 if filing a joint return).

4) All of your gross foreign income and the foreign taxes are reported to you on a payee statement (such as a Form 1099–DIV or 1099–INT).

5) You elect this procedure for the tax year.

If you make this election, you cannot carry back or carry over any unused foreign tax to or from this tax year.

This election exempts you only from the limit figured on Form 1116, **not** *from the other requirements described in this publication. For example, the election does not exempt you from the requirement that the foreign tax be a nonrefundable income tax.*

Limit on the Credit

Your foreign tax credit cannot be more than your total U.S. tax liability multiplied by a fraction. The numerator of the fraction is your taxable income from sources outside the United States. The denominator is your total taxable income from U.S. and foreign sources.

For purposes of figuring the limit, your U.S. tax liability is the amount on line 40, Form 1040, ***less*** any amounts on lines 41 through 45 and any mortgage interest credit and District of Columbia first-time homebuyer credit on line 47 of Form 1040.

To determine the limit, you must separate your foreign source income into categories, as discussed under *Separate Limit Income.* The limit treats all foreign income and expenses in each separate category as a single unit and limits the credit to the U.S. income tax on the taxable income in that category from all sources outside the United States.

In determining your taxable income from sources outside the United States, income from the countries listed in *Table 1,* earlier, is treated as a separate category. You cannot claim a credit for the taxes on that income. However, that income is taxable in the United States. Therefore, you must include it in total taxable income from all U.S. and foreign sources in the denominator of the fraction described above.

Separate Limit Income

You must figure the limit on a separate Form 1116 for each of the following categories of income:

1) Passive income,
2) High withholding tax interest,
3) Financial services income,
4) Shipping income,
5) Certain dividends from a domestic international sales corporation (DISC) or former DISC,
6) Certain distributions from a foreign sales corporation (FSC) or former FSC,
7) Any lump-sum distributions from employer benefit plans for which the special averaging treatment is used to determine your tax, and
8) All other income not included in the above categories (***general limitation income***).

In figuring your separate limits, you must combine the income (and losses) in each category from all foreign sources, and then apply the limit.

Income from controlled foreign corporations. As a U.S. shareholder, certain income that you receive or accrue from a controlled foreign corporation (CFC) is treated as separate limit income. You are considered a U.S. shareholder in a CFC if you own 10% or more of the total voting power of all classes of the corporation's stock.

Subpart F inclusions, interest, rents, and royalties from a CFC are generally treated as separate limit income to the extent that they are attributable to the separate limit income of the CFC. A dividend paid or accrued out of the earnings and profits of a CFC is treated as separate limit income in the same proportion that the part of earnings and profits attributable to income in the separate category bears to the total earnings and profits of the CFC.

Partnership distributive share. In general, a partner's distributive share of partnership income is treated as separate limit income to the extent it is from the separate limit income of the partnership. However, if the partner owns less than a 10% interest in the partnership, the income is generally treated as passive income.

Passive Income

Except as described above under *Income from controlled foreign corporations* and *Partnership distributive share,* passive income generally includes dividends, interest, rents, royalties, and annuities. It also includes gains from the sale of non-income-producing investment property or property that generates passive income. Gains from commodities transactions are included, except for hedging and active business gains or losses of producers, processors, merchants, or handlers of commodities. Passive income also includes amounts you must include as foreign personal holding company income under section 551(a) or 951(a) of the Internal Revenue Codes and amounts includible under section 1293 of the Internal Revenue Code (relating to certain passive foreign investment companies).

If you receive foreign source distributions from a ***mutual fund*** that elects to pass through to you the foreign tax credit, the income is generally considered passive. The mutual fund will need to provide you with a written statement showing the amount of foreign taxes it elected to pass through to you.

What is not passive income. Passive income does not include gains from the sale of inventory property or property held mainly for sale to customers in the ordinary course of your trade or business. Passive income also does not include export financing interest, high-taxed income, active business rents and royalties from unrelated persons, or any income that is defined in another separate limit category.

Export financing interest. This is interest derived from financing the sale or other disposition of property for use outside the United States if:

1) The property is manufactured or produced in the United States, and
2) 50% or less of the value of the property is due to imports into the United States.

High-taxed income. This is passive income subject to foreign taxes that are higher than the highest U.S. tax rate that can be imposed on the income. The high-taxed income and the taxes imposed on it are moved from the passive income category into the general limitation income category. See section 1.904–4(c) of the Income Tax Regulations for more information.

High Withholding Tax Interest

High withholding tax interest is interest (except export financing interest) that is subject to a foreign withholding tax or other tax determined on a gross basis of at least 5%. If interest is not high withholding tax interest because it is export financing interest, it is usually general limitation income. However, if it is received by a financial services entity, it is financial services income.

Financial Services Income

Financial services income generally is income received or accrued by a financial services entity. This is an entity predominately engaged in the active conduct of a banking, financing, insurance, or similar business. If you qualify as a financial services entity, financial services income includes income from the active conduct of such business, passive income, high-taxed income, certain incidental income, and export financing interest which is subject to a foreign withholding or gross-basis tax of at least 5%. Financial services income does not include any export financing interest or high withholding tax interest (except, as noted above, when the export financing interest is subject to a high withholding tax and is received by a financial services entity).

Shipping Income

This is income derived from, or in connection with, the use (or hiring or leasing for use) of any aircraft or vessel in foreign commerce or income derived from space or ocean activities. It also includes income from the sale or other disposition of these aircraft or vessels. Shipping income that is also financial services income is treated as financial services income.

DISC Dividends

This dividend income generally consists of dividends from an interest charge domestic international sales corporation (DISC) or former DISC that are treated as foreign source income.

FSC Distributions

These are:

1) Distributions from a foreign sales corporation (FSC) or former FSC out of earnings and profits attributable to foreign trade income, or
2) Interest and carrying charges incurred by an FSC or former FSC from a transaction that results in foreign trade income.

Lump-Sum Distribution

If you receive a foreign-source lump-sum distribution (LSD) from a retirement plan, and you figure the tax on it using the special averaging treatment for LSDs, you must make a special computation.

TIP *The special averaging treatment for LSDs is elected by filing Form 4972,* Tax on Lump-Sum Distributions.

Follow the Form 1116 instructions and complete the worksheet in those instructions to determine your foreign tax credit on the LSD.

General Limitation Income

This is income from sources outside the United States that does not fall into one of the other separate limit categories. It generally includes active business income as well as wages, salaries, and overseas allowances of an individual as an employee.

Allocation of Foreign Taxes

If you have paid or accrued foreign income tax for a tax year on income in more than one separate limit income category, allocate the tax to the income category to which the tax specifically relates. If the tax is not specifically related to any one category, you must allocate the tax to each category of income.

You do this by multiplying the foreign income tax related to more than one category by a fraction. The numerator of the fraction is the net income in a separate category. The denominator is the total net foreign income.

You figure net income by deducting from the gross income in each category and from the total foreign income any expenses, losses, and other deductions definitely related to them under the laws of the foreign country or U.S. possession. If the expenses, losses, and other deductions are not definitely related to a category of income under foreign law, they are apportioned under the principles of the foreign law. If the foreign law does not provide for apportionment, use the principles covered in the U.S. Internal Revenue Code.

Example. You paid foreign income taxes of $3,200 to Country A on wages of $80,000 and interest income of $3,000. These were the only items of income on your foreign return. You also have deductions of $4,400 that, under foreign law, are not definitely related to either the wages or interest income.

Because the foreign tax is not specifically for either item of income, you must allocate the tax between the wages and the interest under the tax laws of Country A. For purposes of this example, assume that the laws of Country A do this in a manner similar to the U.S. Internal Revenue Code. First figure the net income in each category by allocating those expenses that are not definitely related to either category of income.

You figure the expenses allocable to wages (general limitation income) as follows:

$$\frac{\text{\$80,000 (wages)}}{\text{\$83,000 (total income)}} \times \$4,400 = \$4,241$$

The net wages are $75,759 ($80,000 – $4,241).

You figure the expenses allocable to interest (passive income) as follows:

$$\frac{\text{\$3,000 (interest)}}{\text{\$83,000 (total income)}} \times \$4,400 = \$159$$

The net interest is $2,841 ($3,000–$159).

Then, to figure the foreign tax on the wages, you multiply the total foreign income tax by the following fraction:

$$\frac{\text{\$75,759 (net wages)}}{\text{\$78,600 (total net income)}} \times \$3,200 = \$3,084$$

You figure the foreign tax on the interest income as follows.

$$\frac{\text{\$2,841 (net interest)}}{\text{\$78,600 (total net income)}} \times \$3,200 = \$116$$

Foreign Taxes From a Partnership or an S Corporation

If foreign taxes were paid or accrued on your behalf by a partnership or an S corporation, you will figure your credit using certain information from the Schedule K–1 you received from the partnership or S corporation. To figure your credit for taxes paid or accrued on your behalf by the partnership, refer to lines 17a through 17g Schedule K–1 (Form 1065). To figure your credit for taxes paid or accrued on your behalf by the S corporation, refer to lines 15a through 15g on Schedule K–1 (Form 1120S).

Figuring the Limit

Before you can determine the limit on your credit, you must first figure your total taxable income from all sources ***before*** the deduction for personal exemptions. This is the amount shown on line 37 of Form 1040. Then for each category of income, you must figure your taxable income from sources outside the United States.

Foreign earned income. For this computation, taxable income does not include any income that is exempt from tax under the foreign earned income exclusion or the foreign housing exclusion. These exclusions from income are discussed in detail in Publication 54.

Determining the Source of Income

Before you can figure your taxable income in each category from sources outside the United States, you must first determine whether your gross income in each category is from U.S. sources or foreign sources. Some of the general rules for figuring the source of income are outlined in *Table 3*.

Sales or exchanges of certain personal property. Generally, if personal property is sold by a U.S. resident, the income from the sale is treated as U.S. source. If sold by a nonresident, the income is treated as foreign source.

U.S. resident. The term “U.S. resident,” for this purpose, means a U.S. citizen or resident alien who does not have a tax home in a foreign country. The term also includes a nonresident alien who has a tax home in the United States. Generally, your tax home is the general area of your main place of business, employment, or post of duty, regardless of where you maintain your family home. Your tax home is the place where you are permanently or indefinitely engaged to work as an employee or self-employed individual. If you do not have a regular or main place of business because of the nature of your work, then your tax home is the place where you regularly live. If you do not fit either of these categories, you are considered an itinerant and your tax home is wherever you work.

Nonresident. A nonresident is any person who is not a U.S. resident.

U.S. citizens and resident aliens will not be treated as nonresidents for a sale of personal property ***unless*** an income tax of at least 10% of the gain on the sale is paid to a foreign country.

Inventory. Income from the sale of inventory that you purchased is sourced where the property is sold. Generally, this is where title to the property passes to the buyer.

Income from the sale of inventory that you produced in the United States and sold outside the United States (or vice versa) is sourced based on an allocation. For information on making the allocation, see section 1.863–3 of the Income Tax Regulations.

Intangibles. Income from the sale of intangible property (such as a patent, copyright, trademark, or goodwill) that is contingent on the productivity, use, or disposition of the property is sourced in the country where the property is used. Payments for goodwill are sourced in the country where the goodwill was generated.

Depreciable property. The gain from the sale of depreciable personal property, up to the amount of the previously allowable depreciation, is sourced in the same way as the original deductions were sourced. Thus, to the extent the previous deductions for depreciation were allocable to U.S. source income, the gain is U.S. source. To the extent the depreciation deductions were allocable to foreign sources, the gain is foreign source income. Gain in excess of the depreciation deductions is sourced the same as inventory.

If personal property is ***used predominantly in the United States,*** treat the gain from the sale, up to the amount of the allowable depreciation deductions, entirely as U.S. source income.

If the property is ***used predominantly outside the United States,*** treat the gain, up to the amount of the depreciation deductions, entirely as foreign source income.

Depreciation includes amortization and any other allowable deduction that treats a capital expenditure as a deductible expense.

Sales through foreign office or fixed place of business. Income earned by U.S. residents from the sale of personal property through an office or other fixed place of business outside the United States is generally treated as foreign source if:

1) The income from the sale is from the business operations located outside the United States, and

2) At least 10% of the income is paid as tax to the foreign country.

If less than 10% is paid as tax, the income is U.S. source.

This rule does ***not*** apply to income sourced under the rules for inventory property, depreciable personal property, intangible property (when payments in consideration for the sale are contingent on the productivity, use, or disposition of the property), or goodwill.

Determining Taxable Income From Sources Outside the United States

To figure your taxable income in each category from sources outside the United States, you first ***allocate*** to specific classes (kinds) of gross income the expenses, losses, and other deductions (including the deduction for foreign housing costs) that are ***definitely related*** to that income.

Table 3. **Source of Income**

Item of Income	Factor Determining Source
Salaries, wages, other compensation Business income: Personal services Sale of inventory — purchased Sale of inventory — produced	Where services performed Where services performed Where sold Allocation
Interest	Residence of payer
Dividends	Whether a U.S. or foreign corporation*
Rents Royalties: Natural resources Patents, copyrights, etc.	Location of property Location of property Where property is used
Sale of real property	Location of property
Sale of personal property	Seller's tax home (but see the discussion under *Capital Gains and Losses,* later, for exceptions)
Pensions	Where services were performed that earned the pension
Sale of natural resources	Allocation

* Exceptions include:
a) Dividends paid by a U.S. corporation are foreign source if the corporation elects the Puerto Rico economic activity credit or possessions tax credit.
b) Part of a dividend paid by a foreign corporation is U.S. source if at least 25% of the corporation's gross income is effectively connected with a U.S. trade or business for the 3 tax years before the year in which the dividends are declared.

Definitely related. A deduction is definitely related to a specific class of gross income if it is incurred either:

1) As a result of, or incident to, an activity from which that income is derived, or
2) In connection with property from which that income is derived.

Classes of gross income. You must determine which of the following classes of gross income your deductions are definitely related to:

1) Compensation for services, including wages, salaries, fees, and commissions,
2) Gross income from business,
3) Gains from dealings in property,
4) Interest,
5) Rents,
6) Royalties,
7) Dividends,
8) Alimony and separate maintenance,
9) Annuities,
10) Pensions,
11) Income from life insurance and endowment contracts,
12) Income from cancelled debts,
13) Your share of partnership gross income,
14) Income in respect of a decedent, and
15) Income from an estate or trust.

Exempt income. When you allocate deductions that are definitely related to one or more classes of gross income, you take exempt income into account for the allocation. However, do not take exempt income into account to apportion deductions that are not definitely related to a separate limit category.

Interest expense and state income taxes. You must allocate and apportion your interest expense and state income taxes under the special rules discussed later under *Interest expense* and *State income taxes.*

Class of gross income that includes more than one separate limit category. If the class of gross income to which a deduction definitely relates includes either:

1) More than one separate limit category, or
2) At least one separate limit category and U.S. source income,

you must ***apportion*** the definitely related deductions within that class of gross income.

To apportion, you can use any method that reflects a reasonable relationship between the deduction and the income in each separate limit category. One acceptable method for many individuals is based on a comparison of the gross income in a class of income to the gross income in a separate limit income category.

Use the following formula to figure the amount of the definitely related deduction apportioned to the income in the separate limit category:

$$\frac{\text{Gross income in separate limit category}}{\text{Total gross income in the class}} \times \text{deduction}$$

Do not take exempt income into account when you apportion the deduction. However, income excluded under the foreign earned income or foreign housing exclusion is ***not considered exempt.*** You must, therefore, apportion deductions to that income.

Interest expense. Generally, you apportion your interest expense on the basis of your assets. However, certain special rules apply. If you have gross foreign source income (including income that is excluded under the foreign earned income exclusion) of $5,000 or less, your interest expense can be allocated entirely to U.S. source income.

Business interest. Apportion interest incurred in a trade or business using the asset method based on your business assets.

Under the asset method, you apportion the interest expense to your separate limit categories based on the value of the assets that produced the income. You can value assets at fair market value or the tax book value.

Investment interest. Apportion this interest on the basis of your investment assets.

Passive activity interest. Apportion interest incurred in a passive activity on the basis of your passive activity assets.

Partnership interest. General partners and limited partners with partnership interests of 10% or more must classify their distributive shares of partnership interest expense under the three categories listed above. They must apportion the interest expense according to the rules for those categories by taking into account their distributive share of partnership gross income or pro rata share of partnership assets. For special rules that may apply, see Income Tax Regulation 1.861–9T(e).

Home mortgage interest. This is your deductible home mortgage interest from Schedule A (Form 1040). Apportion it under a gross income method, taking into account all income (including business, passive activity, and investment income), but excluding income that is exempt under the foreign earned income exclusion. The gross income method is based on a comparison of the gross income in a separate limit category with total gross income.

The Instructions for Form 1116 have a worksheet for apportioning your deductible home mortgage interest expense.

For this purpose, however, any qualified residence that is rented is considered a business asset for the period in which it is rented. You therefore apportion this interest under the rules for passive activity or trade or business interest.

Example. You are engaged in a business that you operate as a sole proprietorship. Your business generates only U.S. source income. Your investment portfolio consists of several less-than-10% stock investments. You have stocks with an adjusted basis of $100,000. Some of your stocks (with an adjusted basis of $40,000) generate U.S. source income; your other stocks (with an adjusted basis of $60,000) generate foreign passive income. You own your main home, which is subject to a mortgage of $120,000. Interest on this loan is home mortgage interest. You also have a bank loan in the amount of $40,000. The proceeds were divided equally between your business and your investment portfolio. Your gross income from your business is $50,000. Your investment portfolio generated $4,000 in U.S. source income and $6,000 in foreign source passive income. All of your debts bear interest at the annual rate of 10%.

The interest expense for your business is $2,000. It is apportioned on the basis of the business assets. All of your business assets generate U.S. source income; therefore, they are U.S. assets. The $2,000 in interest expense on the business loan is allocable to U.S. source income.

The interest expense for your investments is also $2,000. It is apportioned on the basis of investment assets. Your assets consist of stock (adjusted basis, $40,000) generating U.S. source income and stock (adjusted basis, $60,000) generating foreign source passive income. For purposes of figuring the limit on the foreign tax credit, $800 ($40,000/$100,000 × $2,000) of your investment interest is apportioned to U.S. source income and $1,200 ($60,000/$100,000 × $2,000) is apportioned to foreign passive income.

Your home mortgage interest expense is $12,000. It is apportioned on the basis of all your gross income. Your gross income consists of $60,000, $54,000 of which is U.S. source income and $6,000 of which is foreign source passive income. Thus $1,200 ($6,000/$60,000 x $12,000) of the home mortgage interest is apportioned to foreign source passive income.

State income taxes. State income taxes (and certain taxes measured by taxable income) are definitely related and allocable to the gross income on which the taxes are imposed. If you pay this kind of state tax and it is imposed in part on foreign source income, the part of your state tax imposed on the foreign source income is definitely related and allocable to foreign source income.

Foreign income not exempt from state tax. If the state does not specifically exempt foreign income from tax, the following rules apply.

1) If the total income taxed by the state is ***greater than*** the amount of U.S. source income for federal tax purposes, then the state tax is allocable to both U.S. source and foreign source income.

2) If the total income taxed by the state is ***less than or equal to*** the U.S. source income for federal tax purposes, none of the state tax is allocable to foreign source income.

Foreign income exempt from state tax. If state law specifically exempts foreign income from tax, the state taxes are allocable to the U.S. source income.

Example. Your total income for federal tax purposes, before deducting state tax, is $100,000. Of this amount, $25,000 is foreign source income and $75,000 is U.S. source income. Your total income for state tax purposes is $90,000, on which you pay state income tax of $6,000. The state does not specifically exempt foreign source income from tax. The total state income of $90,000 is greater than the U.S. source income for federal tax purposes. Therefore, the $6,000 is definitely related and allocable to both U.S. and foreign source income.

Assuming that $15,000 ($90,000 – $75,000) is the foreign source income taxed by the state, $1,000 of state income tax is apportioned to foreign source income, figured as follows:

$$\frac{\$15{,}000}{\$90{,}000} \times \$6{,}000 = \$1{,}000$$

Deductions not definitely related. You must apportion to your foreign income in each separate limit category ***a fraction*** of your other deductions that are not definitely related to a specific class of gross income. If you itemize, these deductions are medical expenses, charitable contributions, and real estate taxes for your home. If you do not itemize, this is your standard deduction. You should also apportion any other deductions that are not definitely related to a specific class of income, including deductions shown on Form 1040, lines 23–31a.

The ***numerator*** of the fraction is your gross foreign income in the separate limit category, and the ***denominator*** is your total gross income from all sources. For this purpose, gross income includes income that is excluded under the foreign earned income provisions.

Itemized deduction limit. For 1998, you may have to reduce your itemized deductions if your adjusted gross income is more than $124,500 ($62,250 if married filing separately). This reduction does not apply to medical and dental expenses, casualty and theft losses, gambling losses, and investment interest.

You figure the reduction by using the Itemized Deductions Worksheet in the instructions for Schedule A (Form 1040). Line 3 of the worksheet shows the total itemized deductions subject to the reduction. Line 9 shows the amount of the reduction.

To determine your taxable income from sources outside the United States, you must first divide the reduction (line 9 of the worksheet) by the deductions subject to the reduction (line 3 of the worksheet). This is your reduction percentage. Then, multiply the deduction shown on Schedule A (Form 1040) by your reduction percentage. Subtract the result from the deduction shown on Schedule A to determine the amount you can allocate to income from sources outside the United States.

Example. You are single and have an adjusted gross income of $150,000. This is the amount on line 5 of the worksheet. Your itemized deductions other than medical and dental expenses, casualty and theft losses, gambling losses, and investment interest total $20,000. This is the amount on line 3 of the worksheet. Reduce your adjusted gross income (line 5) by $124,500. Enter the result ($25,500) on line 7. The amount on line 8 is $765 ($25,500 × 3%). This amount is also entered on line 9.

You have a charitable contribution deduction of $12,000 shown on Schedule A (Form 1040) that is subject to the reduction. Your reduction percentage is 3.8% (765/$20,000). You must reduce your $12,000 deduction by $456 (3.8% × $12,000). The reduced deduction, $11,544 ($12,000 – $456), is used to determine your taxable income from sources outside the United States.

Treatment of personal exemptions. Do not take the deduction for personal exemptions, including exemptions for dependents, in figuring taxable income from sources outside the United States.

Example of Figuring the Limit

Chris Smith is single, under 65, and has been a bona fide resident of Country A for 5 years. Chris earned a salary of $85,000 in Country A. He also had interest income of $5,000 from investments in that country on which he paid an investment counseling fee of $700. Chris paid income tax to Country A on these amounts. In addition, he received $5,000 dividend income from sources in the United States. Chris contributed $500 to his church and other charitable organizations in the United States. He paid $1,500 real estate taxes on his residence in Country A, and deductible interest of $2,500 on his mortgage in Country A.

Chris' income subject to U.S. tax is the total received from all sources. However, from the $85,000 salary received in Country A, he excludes $72,000 under the foreign earned income exclusion. His adjusted gross income is $23,000. Chris' salary is in the general limitation income category. His interest income is in the passive income category. Therefore, he needs to figure two limits. The limits on Chris' salary and interest income are $1,253 and $526, respectively, as shown in Table 4.

Capital Gains and Losses

If you show a capital gain on both lines 16 and 17 of Schedule D (Form 1040), you must adjust the denominator of your limiting fraction. Complete the *Worksheet for Line 17*, found in the Form 1116 instructions, to figure your adjusted denominator. The adjusted denominator is the amount you enter on line 17 of Form 1116.

If you have any foreign source capital gain or loss, you must adjust the numerator of your limiting fraction. See *Adjustment for Foreign Source Capital Gains and Losses.*

Adjustment for Foreign Source Capital Gains and Losses

You must adjust your foreign source capital gains to reflect U.S. capital gains tax rates. You do this by completing Worksheet A in the instructions for Form 1116. In addition, your foreign source capital gain net income taken into account in the numerator of the foreign tax credit limitation fraction cannot exceed your worldwide capital gain.

You must adjust your foreign source net capital loss (to the extent taken into account in determining worldwide capital gain net income) based on the U.S. tax rate applicable to the worldwide capital gain the loss offsets. You can use Worksheet B in the Form 1116 instructions to make this required adjustment.

A “foreign Schedule D” is used to make these adjustments to your foreign source capital gains and losses.

Foreign Schedule D. If you had a foreign source capital gain (and line 17 of the Schedule D you file with your U.S. tax return shows zero or a positive number) or a foreign source loss, you must complete a separate Schedule D using only your foreign source capital gains and losses. On this “foreign Schedule D,” complete Parts I, II, and III.

If Part III, line 17, is a gain, complete Part IV (through line 50) of that Schedule D. Also complete *Worksheet A (Capital Gains)* in the instructions for Form 1116.

If Part III, line 17, is a loss, you can use *Worksheet B (Capital Losses)* in the instructions for Form 1116 to make the adjustment.

CAUTION *Use your foreign Schedule D only to compute the adjusted amounts. Do* **not** *file it with your return.*

More than one category. If you have foreign source capital gains or losses from more than one separate limit income category, complete a separate foreign Schedule D for each category. Then, depending on whether the category has a gain or a loss on line 17, use whichever of the following procedures applies.

Table 4. **Chris Smith Example**

Chris computes his Form 1040 U.S. tax liability as follows.

A.	**Income Subject to U.S. Tax**		
	1) Salary (Country A)		$85,000
	2) Less: Foreign earned income exclusion		72,000
	3) Salary includible in U.S. federal tax return		$13,000
	4) Interest (Country A)		5,000
	5) Dividends (United States)		5,000
	6) Adjusted gross income		$23,000
B.	**Less: Itemized Deductions**		
	1) Contributions (United States)	$ 500	
	2) Taxes on residence (Country A)	1,500	
	3) Home mortgage interest (Country A)	2,500	
	4) Investment counselling fee (Country A) ($700 - 460, 2% of AGI)	240	
	5) Total itemized deductions		4,740
C.	**Taxable Income Before Personal Exemption**		$18,260
D.	**Less: Personal Exemption**		2,700
E.	**Taxable Income**		$15,560
F.	**U.S. Tax Liability from Tax Table under Single Column**		$2,336

Chris computes his Form 1116 taxable general limitation income from Country A as follows.

G.	**Computation of Taxable Income from Country A (General Limitation Income)**			
	1) General limitation income from Country A includible in U.S. federal income tax return (Line A(3))			$13,000
	2) Home mortgage interest apportioned to general limitation income (Line B(3)) $2,500 $\times \frac{\$13,000}{\$23,000}$		1,413	
	3) Total itemized deductions (Line B(5))	$4,740		
	4) Less: Home mortgage interest, plus itemized deductions definitely related to specific income items (Lines B(3) and (4))	2,740		
	5) Itemized deductions to be apportioned	$2,000		
	6) Ratable part of $2,000 applicable to general limitation income $2,000 $\times \frac{\$85{,}000 \text{ (Lines A(2) and G(1))}}{\$95{,}000 \text{ (Lines A(2) and A(6))}}$		1,789	
	7) Total deductions that apply to general limitation income			3,202
	8) Taxable income in general limitation income category			$ 9,798

Chris computes his Form 1116 taxable passive income from Country A as follows. (A separate Form 1116 is needed for each category of income.)

H.	**Computation of Taxable Income from Country A (Passive Income)**			
	1) Passive income from Country A includible in U.S. federal income tax return (Line A(4))			$5,000
	2) Expenses definitely related to passive income (Line B(4))		$240	
	3) Home mortgage interest apportioned to passive income (Line B(3)) $2,500 $\times \frac{\$ 5,000}{\$23,000}$		543	
	4) Total itemized deductions (Line B(5))	$4,740		
	5) Less: Home mortgage interest, plus itemized deductions definitely related to specific income items (Lines B(3) and (4))	2,740		
	6) Itemized deductions to be apportioned	$2,000		
	7) Ratable part of $2,000 applicable to income category $2,000 $\times \frac{\$5{,}000 \text{ (Line A(4))}}{\$95{,}000 \text{ (Lines A(2) and A(6))}}$		105	
	8) Total deductions that apply to passive income			888
	9) Taxable income in passive income category			$4,112

Chris computes his credit limit for each category of income. (See discussion of this calculation earlier under *Limit on the Credit.*)

I.	**Computation of Taxable Income from All Sources for Purposes of the Foreign Tax Credit** Taxable income from all sources (Line C)	$18,260
J.	**Computation of the Limit on Foreign Tax Credit Allowable (General Limitation Income)** $\frac{\$9{,}798 \text{ (Line G(8))}}{\$18{,}260 \text{ (Line I)}} \times$ $2,336 (Line F)	$ 1,253
K.	**Computation of the Limit on Foreign Tax Credit Allowable (Passive Income)** $\frac{\$4{,}112 \text{ (Line H(9))}}{\$18{,}260 \text{ (Line I)}} \times$ $2,336 (Line F)	$ 526

Loss categories. For each category for which line 17 of the foreign Schedule D shows a loss, you must adjust the amount of your foreign loss (to the extent taken into account in determining your worldwide capital gain net income) based on the tax rate applicable to the worldwide gain the loss offsets. You can use *Worksheet B (Capital Losses)* in the Form 1116 instructions to make this required adjustment. To do so, add together the net losses (from line 17 of your foreign Schedules D) of all the separate limitation categories that have losses on line 17 of the foreign Schedule D. Enter the total of all the net losses, to the extent taken into account in determining your worldwide capital gain net income, on line 1 of Worksheet B. Use only one Worksheet B for all of your loss categories. Your adjusted net capital loss appears on line 16 of Worksheet B. Then take the following steps.

1) Add together the net losses (from line 17 of your foreign Schedules D) of all of your loss categories.
2) For each loss category, divide the loss from line 17 of that category's foreign Schedule D by the amount in step 1.
3) For each loss category, multiply the amount from step 2 by your adjusted net loss (line 16 of Worksheet B). This is your adjusted net loss amount for that loss category that you include on line 5 of that category's Form 1116.

Gain categories. If you have foreign source capital gains from more than one separate limitation income category, take the following steps.

1) For each separate limitation income category that has a gain (or zero) on line 17 of its foreign Schedule D, complete Worksheet A in the Form 1116 instructions. Complete a separate Worksheet A for each gain category.
2) Subtract the total of all of your adjusted foreign source capital losses in all loss categories (which appears on line 16 of Worksheet B, as discussed under *Loss categories* above) from the total of all of your adjusted foreign source capital gains (line 12, Worksheet A) in all gain categories.
3) Compare the amount from step 2 to the amount on line 12 of the *Worksheet for line 17* in the Form 1116 instructions. (The foreign capital gain net income taken into account for purposes of the foreign tax credit cannot exceed your worldwide capital gain net income.)

If the amount on line 12 of the *Worksheet for line 17* is equal to or greater than the amount in step 2, no further adjustment is necessary. For each category, include the amount determined in step 1 as capital gain on line 1, Form 1116, or the amount determined under *Loss categories* as capital loss on line 5, Form 1116.

CAUTION

See Allocation of Foreign Capital Losses *and* Recapture of Foreign Losses, *later.*

If the amount on line 12 of the *Worksheet for line 17* is less than the amount from step 2, you must allocate the difference to your gain categories. You reduce the gain for each category based on the percent of the total of all your adjusted foreign capital gain from all of your gain categories (***not*** your net gain from step 2, which has been reduced by losses) that is represented by the adjusted gain in that particular category.

Examples. The following examples show how to make the required adjustments if you have foreign source capital gains and losses in more than one separate limitation income category.

Example 1. You have a total adjusted foreign capital gain (determined by adding the adjusted capital gains from line 12 of your Worksheets A for each of your gain categories) of $25,000. All categories have gains on line 17 of their foreign Schedules D. $5,000 is from the general limitation category. The amount from step 2 under *Gain categories* is $35,000. The amount on line 12 of the *Worksheet for line 17* is $22,580. Since that amount is less than the amount from step 2, you must allocate the difference, $12,420 ($35,000 – $22,580) to each of the categories. You must reduce the gain in the general limitation category by $2,484 ($5,000/$25,000 × $12,420). On the Form 1116 that you complete for the general limitation category, you would include $2,516 ($5,000 – $2,484) as your capital gain on line 1.

Example 2. If you have a passive category loss of $2,000 and a general limitation category loss of $3,000 (as shown on line 17 of your foreign Schedules D for those categories), your aggregate foreign loss is $5,000. Assume your adjusted net capital loss (from line 16 of Worksheet B) is $2,222. For the passive category, the amount to include on line 5 of Form 1116 is $889 ($2,000/$5,000 × $2,222).

Example 3. You have a net gain on line 17 of the Schedule D you are filing with your Form 1040. You have net foreign source capital gains in your passive separate limit category and your general limitation category (from line 17 of the foreign Schedules D for those categories).

You have a net foreign source capital loss in your shipping separate limit category (shown on line 17 of your foreign Schedule D for that category). You complete Worksheet A in the Form 1116 instructions separately for the passive and general limitation categories. The amount on line 12 of Worksheet A is $2,000 for the passive category and $3,000 for the general limitation category. Therefore, your total adjusted foreign capital gain is $5,000 ($2,000 + $3,000).

You complete Worksheet B for the shipping category, and the amount on line 16 of that worksheet is $1,000. Because the shipping category is your only loss category, all of the $1,000 adjusted foreign capital loss belongs in that category. The excess of your adjusted gains over your adjusted losses (your net adjusted capital gain) is $4,000 ($5,000 – $1,000).

Assume $6,500 appears on line 12 of the *Worksheet for line 17* in the Form 1116 instructions. This amount exceeds your net adjusted capital gain by $2,500 ($6,500 – $4,000). Because your foreign capital gain net income cannot exceed your worldwide capital gain net income on the Form 1116, you must allocate this $2,500 excess, as a reduction, between your net capital gain categories based on the portion of your total adjusted capital gain that is attributable to each category. On line 1 of your passive category Form 1116, you include $1,000 ($2,000 – ($2,500 × $2,000/$5,000)).

On line 1 of your general limitation category Form 1116, you include $1,500 ($3,000 – ($2,500 × $3,000/$5,000)).

For the shipping category, the $1,000 adjusted capital loss should be included on line 5 of the Form 1116.

Example 4. The facts are the same as in Example 3, except that line 12 of the *Worksheet for Line 17* shows $3,500. This amount is less than your $4,000 net adjusted capital gain, so no further adjustment is necessary. Include the $2,000, $3,000 and $1,000 amounts on the Forms 1116 for the appropriate categories.

Example 5. You have net capital losses of $3,000 in the passive separate limit category and $4,000 in the general limitation category (from line 17 of the foreign Schedules D for those categories).

You have a net capital gain of $2,000 in the shipping category (from line 17 of the foreign Schedule D for that category).

Your total foreign source capital loss is $7,000 ($3,000 + $4,000). All $7,000 is taken into account in determining worldwide capital gain net income for the year, so all $7,000 must be adjusted. You include all $7,000 on line 1 of Worksheet B in the Form 1116 instructions. Assume $4,500 is the amount on line 16 of Worksheet B. The amount to include on line 5 of your passive category Form 1116 is $1,929 ($4,500 × $3,000/$7,000). The amount to include on line 5 of your general limitation category Form 1116 is $2,571 ($4,500 × $4,000/$7,000). Complete Worksheet A in the Form 1116 instructions for your shipping category, to determine the amount to include as capital gain on line 1 of your shipping category Form 1116.

Allocation of Foreign Losses

If you have a foreign loss when figuring your taxable income in a separate limit income category, and you have income in one or more of the other separate categories, you must first reduce the income in these other categories by the loss before reducing income from U.S. sources.

Example. You have $10,000 of income in the passive income category and incur a loss of $5,000 in the general limitation income category. You use the $5,000 loss to offset $5,000 of the income in the passive category.

How to allocate. You must allocate foreign losses among the separate limit income categories in the same proportion as each category's income bears to total foreign income.

Example. You have a $2,000 loss in the general limitation income category, $3,000 of passive income, and $2,000 in distributions from an FSC. You must allocate the foreign loss to the income in the other separate categories. Sixty percent ($3,000/$5,000) of the $2,000 loss (or $1,200) reduces passive income and forty percent ($2,000/$5,000) or $800 reduces FSC distributions.

Loss more than foreign income. If you have a loss remaining after reducing the income in other separate limit categories, use this excess to reduce U.S. source income. When you use a foreign loss to offset U.S. source income, you must recapture the loss as explained later under *Recapture of Foreign Losses.*

Recharacterization of subsequent income in a loss category. If you use a loss in one separate limit category (category A) to reduce the amount of income in another category or categories (category B and/or category C) and, in a later year you have income in category A, you must, in that later year, recharacterize some or all of the income from category A as income from category B and/or category C.

CAUTION *Do not recharacterize the tax.*

Example. Using the same facts as in the previous example, in the next year you have $4,000 of passive income, $1,000 in FSC distributions, and $5,000 of general limitation income. Since $1,200 of the general limitation loss was used to reduce your passive income in the previous year, $1,200 of the current year's general limitation income of $5,000 must be recharacterized as passive income. This makes the current year's total of passive income $5,200 ($4,000 + $1,200). Similarly, $800 of the general limitation income must be recharacterized as FSC distributions, making the current year's total of FSC distributions $1,800 ($1,000 + $800). The total income in the general limitation category is then $3,000.

U.S. losses. Allocate any net loss from sources in the United States among the different categories of foreign income ***after:***

1) Allocating all foreign losses as described above,
2) Recapturing any prior year overall foreign loss as described below, and
3) Recharacterizing foreign source income as described above.

Recapture of Foreign Losses

If you have only losses in your separate limit categories, or if you have a loss remaining after allocating your foreign losses to other separate categories, you have an overall foreign loss. If you use this loss to offset U.S. source income (resulting in a reduction of your U.S. tax liability), you must recapture your loss in each succeeding year in which you have taxable income from foreign sources in the same separate limit category. You must recapture the overall loss regardless of whether you chose to claim the foreign tax credit for the loss year.

You recapture the loss by treating part of your taxable income from foreign sources in a later year as U.S. source income. In addition, if you sell or otherwise dispose of property used in your foreign trade or business, you may be considered to have had a gain on the sale or other disposition because of the recapture-of-foreign-losses provision. See *Dispositions* later. The amount you treat as U.S. source income reduces the numerator of the limiting fraction (foreign source income), and therefore reduces the foreign tax credit limit.

You must establish separate accounts for each type of foreign loss that you sustain. The balances in these accounts are the overall foreign loss subject to recapture. Reduce these balances at the end of each tax year by the loss that you recaptured. You must attach a statement to your Form 1116 to report the balances (if any) in your overall foreign loss accounts.

Overall foreign loss. An overall foreign loss is the amount by which your gross income from foreign sources for a tax year is exceeded by the sum of your expenses, losses, or other deductions that you allocated and apportioned to foreign income under the rules explained earlier under *Determining Taxable Income From Sources Outside The United States.* But see *Losses not considered* later for exceptions.

Example. You are single and have gross dividend income of $10,000 from U.S. sources. You also have a greater-than-10% interest in a foreign partnership in which you materially participate. The partnership has a loss for the year, and your distributive share of the loss is $15,000. Your share of the partnership's gross income is $100,000, and your share of its expenses is $115,000. Your only foreign source income is your share of partnership income which is in the general limitation income category. You are a bona fide resident of a foreign country and you elect to exclude your foreign earned income. You exclude the maximum $72,000. You also have itemized deductions of $4,700 that are not definitely related to any item of income.

In figuring your overall foreign loss in the general limitation category for the year, you must allocate a ratable part of the $4,700 in itemized deductions to the foreign source income. You figure the ratable part of the $4,700 that is for foreign source income, based on gross income, as follows:

$$\frac{\$100{,}000\ \text{(Foreign gross income)}}{\$110{,}000\ \text{(Total gross income)}} \times \$4{,}700 = \$4{,}273$$

Therefore, your ***overall foreign loss*** for the year is $8,473, figured as follows:

Foreign gross income		$100,000
Less: Foreign earned income exclusion	$72,000	
Allowable definitely related expenses ($28,000/100,000 × $115,000)	32,200	
Ratable part of itemized deductions	4,273	108,473
Overall foreign loss		$8,473

Losses not considered. You do not consider the following in figuring an overall foreign loss in a given year.

1) Net operating loss deduction.
2) Foreign expropriation loss not compensated by insurance or other reimbursement.
3) Casualty or theft loss not compensated by insurance or other reimbursement.

Recapture provision. If you have an overall foreign loss for any tax year and use the loss to offset U.S. source income, part of your taxable income from foreign sources (in the same separate limit category as the loss) for each succeeding year is treated as U.S. source taxable income. The part that is treated as U.S. source income is the **least** of:

1) The balance in the applicable overall foreign loss account,
2) 50% (or a larger percentage that you can choose) of your taxable income from foreign sources for the succeeding tax year, or
3) The foreign source taxable income for the succeeding tax year which is in the same separate limit category as the loss after the allocation of foreign losses (discussed earlier).

Example. During 1997 and 1998, you were single and a 20% general partner in a partnership that derived its income from Country X. You also received dividend income from U.S. sources during those years.

For 1997, the partnership had a loss and your share was $20,000, consisting of $80,000 gross income less $100,000 expenses. Your net loss from the partnership was $2,500, after deducting the foreign earned income exclusion and definitely related allowable expenses. This is income in the general limitation category. Your U.S. dividend income was $20,000. Your itemized deductions totaled $5,000 and were not definitely related to any item of income. In figuring your taxable income for 1997, you deducted your share of the partnership loss from Country X from your U.S. source income.

During 1998, the partnership had net income from Country X. Your share of the net income was $40,000, consisting of $100,000 gross income less $60,000 expenses. Your net income from the partnership was $11,200, after deducting the foreign earned income exclusion and the definitely related allowable expenses. This is income in the general limitation category. You also received dividend income of $20,000 from U.S. sources. Your itemized deductions were $6,000, which are not definitely related to any item of income. You paid income taxes of $4,000 to Country X on your share of the partnership income.

When figuring your foreign tax credit for 1998, you must find the foreign source taxable income that you must treat as U.S. source income because of the foreign loss recapture provisions.

You figure the foreign taxable income that you must recapture as follows:

A. Determination of 1997 Overall Foreign Loss

1)	Partnership loss from Country X		$2,500
2)	Add: Part of itemized deductions allocable to gross income from Country X—		

$$\frac{\$80{,}000}{\$100{,}000} \times \$5{,}000 = \$4{,}000$$

3)	Overall foreign loss for 1997		$6,500

B. Amount of Recapture for 1998

1)	Balance in general limitation category foreign loss account		$6,500
2)	Foreign source taxable income	$11,200	
	Less: Itemized deductions allocable to foreign source taxable income ($100,000 / $120,000 × $6,000)	5,000	$6,200
3)	50% of taxable income subject to recapture		$3,100
4)	Taxable income in general limitation category after allocation of foreign losses—General limitation taxable income	$11,200	
	Less: Itemized deductions allocable to that income ($100,000 / $120,000 × $6,000)	5,000	
	General limitation taxable income less allocated foreign losses — ($6,200 – 0)	$6,200	
5)	Recapture for 1998 (least of (1), (3), or (4))		$3,100

The amount of the recapture is shown on line 15, Form 1116.

Recapturing more overall foreign loss than required. If you want to make an election or change a prior election to recapture a greater part of the balance of an overall foreign loss account than is required (as discussed earlier), you must attach a statement to your Form 1116 making the election. If you change a prior year's election, you should file Form 1040X.

The statement you attach to Form 1116 must show:

1) The percentage and amount of your foreign taxable income that you are treating as U.S. source income, and
2) The balance (both before and after the recapture) in the overall foreign loss account that you are recapturing.

Deduction for foreign taxes. You can recapture part (or all, if applicable) of an overall foreign loss in tax years in which you deduct, rather than credit, your foreign taxes. You recapture the lesser of:

1) The balance in the applicable overall foreign loss account, or
2) The foreign source taxable income of the same separate limit category that resulted in the overall foreign loss minus the foreign taxes imposed on that income.

Special rules for losses before 1987. If you had an overall foreign loss account at the end of your last tax year beginning before 1987, there are special rules for recapturing the balance in later years. You recapture the balance from the ***separate limit income category*** in effect after 1986 that is comparable to the income category for which the loss account was established. For example, if you have a balance in your overall foreign loss account in the former nonbusiness interest income category, you will recapture this loss from the current passive income category.

Recapture overall foreign losses in the former general limitation income category (all other) from your current general limitation, financial services, and shipping income categories. If the total of these categories subject to the recapture is more than the overall foreign loss to be recaptured, figure the amount of each type of separate limit income to treat as U.S. source income by multiplying the overall foreign loss subject to recapture by a ***fraction***.

The ***numerator*** of the fraction is the income in each separate category from which the loss can be recaptured. The ***denominator*** is the total income of all the separate categories from which the loss can be recaptured. However, if you can show that the loss is from one or more separate limit categories in effect after 1986, then you can recapture the loss from those separate categories only. Make this recapture after you have allocated your foreign losses and before you have recharacterized later income, as discussed earlier.

When to recapture. Recapture an overall foreign loss incurred in a tax year beginning before 1987 before an overall foreign loss incurred in tax years after 1986.

Dispositions. If, before you have fully recaptured an overall foreign loss, you dispose of trade or business property used predominantly outside the United States, the disposition is subject to the recapture rules. You are considered to have received and recognized foreign taxable income in the year you dispose of the property.

The foreign source income that you are considered to have received and recognized on the property and that you must treat as U.S. source income is 100% of the lesser of:

1) The fair market value of the property minus your adjusted basis, or

2) The remaining amount of the overall foreign loss not treated as U.S. source income in the current year or any prior tax year.

Predominant use outside U.S. Property is used predominantly outside the United States if it was located outside the United States more than 50% of the time during the 3-year period ending on the date of disposition. If you used the property fewer than 3 years, count the use during the period it was used in a trade or business.

Disposition defined. A disposition includes the following situations.

- A sale, exchange, distribution, or gift of property.
- A transfer upon the foreclosure of a security interest (but not a mere transfer of title to a creditor or debtor upon creation or termination of a security interest).
- An involuntary conversion.
- A contribution to a partnership, trust, or corporation.
- A transfer at death.
- Any other transfer of property whether or not gain or loss is normally recognized on the transfer.

The character of the income recognized solely because of the disposition rules is the same as if you had sold or exchanged the property.

However, a disposition ***does not include***:

- A disposition of property that is not a material factor in producing income, or
- A transaction in which gross income is not realized.

Basis adjustment. If gain is recognized on a disposition solely because of an overall foreign loss account balance at the time of the disposition, the recipient of the property can increase its basis by the amount of gain deemed recognized. If the property was transferred by gift, its basis in the hands of the donor immediately prior to the gift is increased by the amount of gain deemed recognized.

Tax Treaties

The tax treaties to which the United States is a party are designed, in part, to prevent double taxation of the same income by the United States and the treaty country. Certain treaties have special rules you must consider when figuring your foreign tax credit if you are a U.S. citizen residing in the treaty country. These rules generally allow an additional credit for part of the tax imposed by the treaty partner on U.S. source income. It is separate from, and in addition to, your foreign tax credit for foreign taxes paid or accrued on foreign source income. The treaties that provide for this additional credit include those with ***Australia, Austria, Canada, Czech Republic, Finland, France, Germany, Ireland, Israel, Mexico, the Netherlands, New Zealand, Portugal, Slovak Republic, South Africa, Spain, Sweden, and Switzerland.*** There is a worksheet at the end of this publication to help you figure the additional credit. But do not use this worksheet to figure the additional credit under the treaties with Australia and New Zealand.

You can get more information, and the worksheet to figure the additional credit under the Australia and New Zealand treaties, by writing to:

Internal Revenue Service
Assistant Commissioner (International)
Attention: OP:IN:D:CS
950 L'Enfant Plaza South, SW
Washington, DC 20024

You can also contact the United States Revenue Service Representatives at the U.S. Embassies in Bonn, London, Mexico City, Paris, Rome, Singapore, and Tokyo, as appropriate, for assistance.

Report required. You may have to report certain information with your return if you claim a foreign tax credit under a treaty provision. For example if a treaty provision allows you to take a foreign tax credit for a specific tax that is not allowed by the Internal Revenue Code, you must report this information with your return. To report the necessary information, use **Form 8833,** *Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b).*

If you do not report this information, you may have to pay a penalty of $1,000.

You do not have to file Form 8833 if you are claiming the additional foreign tax credit (discussed previously).

Carryback and Carryover

If, because of the limit on the credit, you cannot use the full amount of qualified foreign taxes paid or accrued in the tax year, you are allowed a 2-year carryback and then a 5-year carryover of the unused foreign taxes.

This means that you can treat the unused foreign tax of a tax year as though the tax were paid or accrued in your 2 preceding and 5 succeeding tax years up to the amount of any excess limit in those years. A period of less than 12 months for which you make a return is considered a tax year.

The ***unused foreign tax*** in each category is the amount of qualified taxes paid or accrued minus the limit for that category. The ***excess limit*** in each category is the amount by which the limit is more than the qualified taxes paid or accrued for that category.

Figure your carrybacks or carryovers separately for each separate limit income category.

The mechanics of the carryback and carryover are illustrated by the following examples.

Example 1. All your foreign income is in the general limitation income category. The limit on your credit and the qualified taxes paid to Country X are as follows:

	Your limit	Tax paid	Unused foreign tax (+) or excess limit (–)
1996	$100	$50	–50
1997	$200	$100	–100
1998	$300	$500	+200

In 1998, you had unused foreign tax of $200 to carry to other years. You are considered to have paid this unused foreign tax first in 1996 (the second preceding tax year) up to the excess limit in that year of $50, and then in 1997 (the first preceding tax year) up to that year's excess limit of $100. You can then carry forward the remaining $50 of unused tax.

Example 2. All your foreign income is in the passive income category. In 1994, you had an unused foreign tax of $200. Since you had no foreign income in 1992 and 1993, you cannot claim a credit for the unused foreign taxes in those years. You can, however, carry forward the unused tax to 1995, 1996, 1997, 1998, and 1999. The limit on your credit and the qualified foreign taxes paid on passive income are as follows:

	Your limit	Tax paid	Unused foreign tax (+) or excess limit (–)
1994	$600	$800	+200
1995	$600	$700	+100
1996	$500	$700	+200
1997	$550	$450	–150
1998	$800	$700	–100
1999	$550	$550	+50

You are not considered to have paid the $200 of unused foreign tax from 1994 in 1995 or 1996 since you have no excess limit in either of those years. Therefore, you carry the tax forward and are considered to have paid it in 1997, up to the excess limit of $150. The carryover reduces your excess limit in that year to zero. The remaining unused foreign tax of $50 can be carried to 1998. At this point, you have fully absorbed the unused foreign tax from 1994 and can carry it no further. You can also carry forward the unused foreign tax from 1995 and 1996.

Effect of bankruptcy or insolvency. If your debts are canceled because of bankruptcy or insolvency, you may have to reduce your unused foreign tax carryovers to or from the tax year of the debt cancellation by $33\frac{1}{3}$¢ for each $1 of canceled debt that you exclude from your gross income. Your bankruptcy estate may have to make this reduction if it has acquired your unused foreign tax carryovers. Also, you may not be allowed to carry back any unused foreign tax to a year before the year in which the bankruptcy case began. For more information, see *Reduction of Tax Attributes* in Publication 908, *Bankruptcy Tax Guide.*

Time Limit on Tax Assessment

When you carry back an unused foreign tax, IRS is given additional time to assess any tax resulting from the carryback. An assessment can be made up to the end of one year after the expiration of the statutory period for an assessment relating to the year in which the carryback originated.

Claim for Refund

If you have an unused foreign tax that you are carrying back to the first or the second preceding tax year, you should file Form 1040X for each earlier tax year to which you are carrying the unused foreign tax, and attach a revised Form 1116.

Taxes All Credited or All Deducted

In a given year, you must either claim a credit for all foreign taxes that qualify for the credit or claim a deduction for all of them. This rule is applied with the carryback and carryover procedure, as follows:

1) You cannot claim a credit carryback or carryover from a year in which you deducted qualified foreign taxes,
2) You cannot deduct unused foreign taxes in any year to which you carry them, even if you deduct qualified foreign taxes actually paid in that year, and
3) You cannot claim a credit for unused foreign taxes in a year to which you carry them unless you also claim a credit for foreign taxes actually paid or accrued in that year.

Unused taxes carried to deduction year. If you carry unused foreign taxes to a year in which you chose to deduct qualified foreign taxes, you must compute a foreign tax credit limit for the deduction year as if you had chosen to credit foreign taxes for that year. If the credit computation results in an excess limit (as defined earlier) for the deduction year, you must treat the unused foreign taxes carried to the deduction year as paid or accrued in that year. You cannot actually deduct or claim a credit for the unused foreign taxes carried to the deduction year. But, this treatment reduces the amount of unused foreign taxes that you can carry to another year.

Because you cannot deduct or claim a credit for unused foreign taxes treated as paid or accrued in a deduction year, you will get no tax benefit for those taxes (the amount absorbed) unless you file a timely refund claim or an amended return to reverse your choice from deducting the taxes to claiming the credit. You have ten years from the due date of the return for the deduction year to make this change. See *Making or Changing Your Choice* discussed earlier under *Choice To Take Credit or Deduction.*

Example. In 1998, you paid foreign taxes of $600 to Country X on income in the passive income category. You have a foreign tax credit carryover of $200 from the same category from 1997. For 1998, you figure your foreign tax credit limit to be $700.

If you choose to claim a credit for your foreign taxes in 1998, you would be allowed a credit of $700, consisting of $600 paid in 1998 and $100 of the $200 carried over from 1997. You will have a credit carryover to 1999 of $100, which is your unused 1997 foreign tax credit carryover.

If you choose to deduct your foreign taxes in 1998, your deduction will be limited to $600, which is the amount of taxes paid in 1998. You are not allowed a deduction for any part of the carryover from 1997. However, you must treat $100 of the credit carryover as used in 1998, because you have an unused credit limit of $100 ($700 limit minus $600 of foreign taxes paid in 1997). This reduces your carryover to later years.

If you claimed the deduction for 1998 and later decided you wanted to receive a benefit for that $100 part of the 1997 carryover, you could reverse the choice of a deduction for 1998. You would have to claim a credit for those taxes by filing an amended return for 1998 within the time allowed.

Married Couples

For a tax year in which you and your spouse file a joint return, you must figure the unused foreign tax or excess limit in each separate limit category on the basis of your combined income, deductions, taxes, and credits.

For a tax year in which you and your spouse file separate returns, you figure the unused foreign tax or excess limit by using only your own separate income, deductions, taxes, and credits. However, if you file a joint return for any other year involved in figuring a carryback or carryover of unused foreign tax to the current tax year, you will need to make an allocation, as explained under *Allocations Between Husband and Wife,* later.

Continuous use of joint return. If you and your spouse file a joint return for the current tax year, and file joint returns for ***each*** of the other tax years involved in figuring the carryback or carryover of unused foreign tax to the current tax year, you figure the joint carryback or carryover to the current tax year using the joint unused foreign tax and the joint excess limits.

Joint and separate returns in different years. If you and your spouse file a joint return for the current tax year, but file separate returns for all the other tax years involved in figuring the carryback or carryover of the unused foreign tax to the current tax year, your separate carrybacks or carryovers will be a joint carryback or carryover to the current tax year.

In other cases in which you and your spouse file joint returns for some years and separate returns for other years, you must make the allocation described in *Allocations Between Husband and Wife,* next.

Allocations Between Husband and Wife

You may have to allocate an unused foreign tax or excess limit for a tax year in which you and your spouse filed a joint return. This allocation is needed in the following three situations.

1) You and your spouse file separate returns for the current tax year, to which you carry an unused foreign tax from a tax year for which you and your spouse filed a joint return.
2) You and your spouse file separate returns for the current tax year, to which you carry an unused foreign tax from a tax year for which you and your spouse filed separate returns, but through a tax year for which you and your spouse filed a joint return.
3) You and your spouse file a joint return for the current tax year, to which you carry an unused foreign tax from a tax year for which you and your spouse filed a joint return, but through a tax year for which you and your spouse filed separate returns.

These three situations are illustrated in ***Figure A***. In each of the situations, 1998 is the current year.

Method of allocation. For a tax year in which you must allocate the unused foreign tax or the excess limit for your separate income categories between you and your spouse, you must take the following steps.

1) Figure a percentage for each separate income category by dividing the taxable income of each spouse from sources outside the United States in that category by the joint taxable income from sources outside the United States in that category. Then, apply each percentage to its category's joint foreign tax credit limit to find the part of the limit allocated to each spouse.
2) Figure the part of the unused foreign tax, or of the excess limit, for each separate income category allocable to each spouse. You do this by comparing the allocated limit (figured in (1)), with the foreign taxes paid or accrued by each spouse on income in that category. If the foreign taxes you paid or accrued for that category are more than your part of its limit, you have an unused foreign tax. If, however, your part of that limit is more than the foreign taxes you paid or accrued, you have an excess limit for that category.

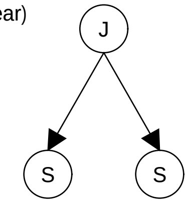
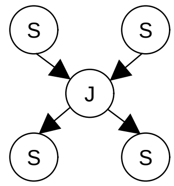
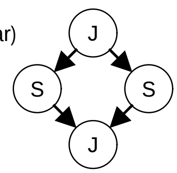
Allocation of the carryback and carryover. The mechanics of the carryback and carryover, when allocations between husband and wife are needed, are illustrated by the following example.

Example. A Husband (H) and Wife (W) filed joint returns for 1994, 1996, and 1997 and separate returns for 1995 and 1998. Neither H nor W had any unused foreign tax or excess limit for any year before 1994. For the tax years involved, the income, unused foreign tax, excess limits, and carrybacks and carryovers are in the general limitation income category and are shown in *Table 5*.

W's allocated part of the unused foreign tax from 1994 ($30) is partly absorbed by her separate excess limit of $20 for 1995, and then fully absorbed by her allocated part of the joint excess limit for 1996 ($20). H's allocated part of the unused foreign tax from 1994 ($50) is fully absorbed by his allocated part of the joint excess limit ($65) for 1996.

H's separate unused foreign tax from 1995 ($25) is partly absorbed (up to $15) by his remaining excess limit in 1996, and then fully absorbed by W's remaining part of the joint excess limit for 1996 ($10). Each spouse's excess limit on a joint return (for 1996 in this case) is reduced in three ways. First, it is reduced by each one's carryover from earlier years (W has a carryover of unused foreign tax of $10 from 1994). Second, it is reduced by any carryover or carryback from the year of origin of the unused foreign tax under consideration. (In this example, W had no carryover of unused foreign tax from 1995 but had an excess limit.) Third, it is reduced by the unabsorbed carryover or carryback of the other spouse from the year of origin of the

Figure A. **Allocation Between Husband and Wife**

You and your spouse file separate returns for the current tax year (1998), to which you carry an unused foreign tax from a tax year for which you and your spouse filed a joint return.	1997 (Joint return—Unused foreign tax year) 1998 (Separate return—Excess limit year)	
You and your spouse file separate returns for the current tax year (1998), to which you carry an unused foreign tax from a tax year for which you and your spouse filed separate returns, but through a tax year for which you and your spouse filed a joint return.	1996 (Separate returns—Unused foreign tax year) 1997 (Joint return—Excess limit year) 1998 (Separate returns—Excess limit year)	
You and your spouse file a joint return for the current tax year (1998), to which you carry an unused foreign tax from a tax year for which you and your spouse filed a joint return, but through a tax year for which you and your spouse filed separate returns.	1996 (Joint return—Unused foreign tax year) 1997 (Separate returns—Excess limit year) 1998 (Joint return—Excess limit year)	

J—Joint return filed
S—Separate return filed

unused foreign tax (H's remaining $10 of unused foreign tax carryover from 1995).

W's allocated part of the unused foreign tax of $69 from 1997 is partly absorbed by her excess limit in 1998 ($10), and the remaining $59 will be a carryover to the general limitation income category for 1999 and the following 3 years unless absorbed sooner. H's allocated part of the unused foreign tax of $104 from 1997 is partly absorbed by his excess limit in 1998 ($50), and the remaining $54 will be a carryover to 1999 and the following 3 years unless absorbed sooner.

Joint Return Filed in a Deduction Year

When you file a joint return in a deduction year, and carry unused foreign tax through that year from the prior year in which you and your spouse filed separate returns, the amount absorbed in the deduction year is the unused foreign tax of each spouse deemed paid or accrued in the deduction year up to the amount of that spouse's excess limit in that year. You cannot reduce either spouse's excess limit in the deduction year by the other's unused foreign taxes in that year.

International Boycott

If you participate in or cooperate with an international boycott during the tax year, you have to reduce your foreign tax credit otherwise allowable. Do this for each separate income category.

Other benefits related to an interest charge domestic international sales corporation (IC-DISC), a controlled foreign corporation (CFC), and a foreign sales corporation (FSC) may be denied.

These rules generally do not apply to employees with wages who are working and living in boycotting countries, or to retirees with pensions who are living in these countries.

List of boycotting countries. A list of the countries which may require participation in or cooperation with an international boycott is published by the Department of the Treasury each calendar quarter. As of the revision date of this publication, the following countries are listed.

Table 6. **Boycotting Countries**

Bahrain	Qatar
Iraq	Saudi Arabia
Kuwait	Syria
Lebanon	United Arab Emirates
Libya	Republic of Yemen
Oman	

For information concerning changes to the list, write to:

Internal Revenue Service
Assistant Commissioner (International)
Attn: OP:IN:D:CS
950 L'Enfant Plaza South, SW
Washington, DC 20024.

Determinations of Whether Boycott Rules Apply

You may request a determination from the Internal Revenue Service as to whether a particular operation constitutes participation in or cooperation with an international boycott. The procedures for obtaining a determination from the Service are outlined in Revenue Procedure 77–9 (on page 542 of the 1977–1 Cumulative Bulletin). You can buy the *Cumulative Bulletin* from the Government Printing Office. Copies are also available in most IRS offices and you are welcome to read them there.

Public inspection. A determination is treated as a written determination and is open to public inspection. In addition, any background file related to the determination is open to public inspection. However, your identity and certain other information will remain confidential.

Table 5. **Carryback/Carryover**

Tax Year	1994	1995	1996	1997	1998
Return	**Joint**	**Separate**	**Joint**	**Joint**	**Separate**
H's unused foreign tax to be carried back or over, or excess limit* (enclosed in parentheses) . . .	$50	$25	($65)	$104	($50)
W's unused foreign tax to be carried back or over, or excess limit* (enclosed in parentheses) . . .	$30	($20)	($20)	$69	($10)
Carryover absorbed:					
W's from 1994	—	20W	10W	—	—
H's from 1994	—	—	50H	—	—
H's from 1995	—	—	15H	—	—
"	—	—	10W	—	—
W's from 1997	—	—	—	—	10W
H's from 1997	—	—	—	—	50H
W = Absorbed by W's excess limit					
H = Absorbed by H's excess limit					

* General limitation income category only

Reporting Requirements

If you are a ***U.S. person*** (defined later), you must file a report if you:

1) Have operations,
2) Are a member of a controlled group, a member of which has operations,
3) Are a U.S. shareholder who owns 10% or more of the voting power of all voting stock of a foreign corporation that has operations, but only if you own the stock of the foreign corporation directly or through foreign entities,
4) Are a partner in a partnership that has operations, or
5) Are treated as the owner of a trust that has operations

in or related to a boycotting country (or with the government, a company, or national of a boycotting country).

A U.S. person is a citizen or resident of the United States, a domestic partnership, a domestic corporation, and any estate or trust which does not exclude from income its foreign source income that is not effectively connected with the conduct of a trade or business within the United States.

Form required. If you have to file a report, you must use **Form 5713,** *International Boycott Report,* and attach all supporting schedules.

You must file the form in duplicate when your tax return is due, including extensions. Send one copy to the Internal Revenue Service Center, Philadelphia, PA 19255. Attach the other copy to your income tax return that you file with your usual Internal Revenue Service Center.

Penalty for failure to file. If you willfully fail to make a report, in addition to other penalties, you may be fined not more than $25,000 or imprisoned for no more than one year, or both.

Confidentiality of reports. Your reports submitted as part of the tax return are confidential.

How To Claim the Credit

If you meet the requirements and choose to be exempt from the foreign tax credit limit, explained earlier, you claim the credit on line 46 of Form 1040. If you are not exempt from the limit you must file Form 1116 to claim a credit for foreign taxes. You must also translate your foreign income and taxes into U.S. dollars.

Form 1116

You must file a Form 1116 with your U.S. income tax return, Form 1040. You must file a separate Form 1116 for each of the following categories of income for which you claim a foreign tax credit:

1) Passive income,
2) High withholding tax interest,
3) Financial services income,
4) Shipping income,
5) Dividends from a DISC or former DISC,
6) Certain distributions from an FSC or former FSC,
7) Lump-sum distributions, and
8) General limitation income—all other income from sources outside the United States.

A Form 1116 consists of four parts as explained next.

1) *Part I—Figuring Taxable Income or Loss From Sources Outside the United States for Category Checked Above.* Enter the gross amounts of your foreign or possession source income in the separate limit category for which you are completing the form. From these, subtract the deductions that are definitely related to the separate limit income, and a ratable share of the deductions not definitely related to that income. If, in a separate limit category, you received income from more than one foreign country or U.S. possession, complete a separate column for each.
2) *Part II—Foreign Taxes Paid or Accrued.* This part shows the foreign taxes you paid or accrued on the income in the separate limit category in foreign currency and U.S. dollars. If you paid (or accrued) foreign tax to more than one foreign country or U.S. possession, complete a separate line for each.
3) *Part III—Figuring the Credit.* You use this part to figure the foreign tax credit that is allowable.
4) *Part IV—Summary of Credits From Separate Parts III.* You use this part on one Form 1116 to summarize the foreign tax credits figured on separate Forms 1116.

Records To Keep

You should keep a receipt for each foreign tax payment. If you claim a credit for taxes accrued, you should also keep the foreign tax return on which you based the accrued tax.

If you meet the qualifications and elect to be exempt from the foreign tax credit limit as explained earlier, you should keep the payee statement, such as Form 1099–DIV or Form 1099–INT.

Although you do not have to attach proof of the foreign taxes paid or accrued to your Form 1116, or your Form 1040 (if you do not file Form 1116), you should keep this proof in case you are later asked to verify the taxes shown on your Form 1116 or your Form 1040.

The receipt or return you keep as proof should be either the original, a duplicate original, a duly certified or authenticated copy, or a sworn copy. If the receipt or return is in a foreign language, you also should provide a certified translation of it. Revenue Ruling 67–308, (on page 254 of the 1967–2 Cumulative Bulletin) discusses in detail the requirements of the certified translation. You can buy the *Cumulative Bulletin* from the Government Printing Office. Copies of the *Cumulative Bulletins* are also available in most IRS offices and you are welcome to read them there.

Alternative Minimum Tax

In addition to your regular income tax, you may be liable for the alternative minimum tax. The foreign tax credit is allowed to a limited extent against this tax. See the instructions for Form 6251, *Alternative Minimum Tax—Individuals,* for a discussion of the alternative minimum tax and the foreign tax credit applied against it.

Foreign Currency and Exchange Rates

U.S. income tax is imposed on income expressed in U.S. dollars, while the foreign tax is imposed on income expressed in foreign currency. Therefore, the tax credit is affected when the foreign currency depreciates or appreciates in value in terms of U.S. dollars.

Translating foreign currency into U.S. dollars. If you receive all or part of your income or pay some or all of your expenses in foreign currency, you must translate the foreign currency into U.S. dollars. How you do this depends on your functional currency. Your ***functional currency*** generally is the U.S. dollar unless you are required to use the currency of a foreign country.

You must make all federal income tax determinations in your functional currency. The U.S. dollar is the functional currency for all taxpayers except some qualified business units. A qualified business unit is a separate and clearly identified unit of a trade or business that maintains separate books and records. Unless you are self-employed, your functional currency is the U.S. dollar.

Even if you are self-employed and have a qualified business unit, your functional currency is the dollar if any of the following apply.

- You conduct the business in dollars.
- The principal place of business is located in the United States.
- You choose to or are required to use the dollar as your functional currency.
- The business books and records are not kept in the currency of the economic environment in which a significant part of the business activities is conducted.

If your functional currency is the U.S. dollar, you must immediately translate into dollars all items of income, expense, etc., that you receive, pay, or accrue in a foreign currency and that will affect computation of your income tax. If there is more than one exchange rate, use the one that most properly reflects your income. You can generally get exchange rates from banks and U.S. Embassies.

If your functional currency is not the U.S. dollar, make all income tax determinations in your functional currency. At the end of the year, translate the results, such as income or loss, into U.S. dollars to report on your income tax return.

For more information, write to:

Internal Revenue Service
Assistant Commissioner (International)
Attention: OP:IN:D:CS
950 L'Enfant Plaza South, SW
Washington, DC 20024

Rate of exchange for foreign taxes paid. If you claim the credit for foreign taxes on the ***cash basis,*** use the rate of exchange in effect on the date you paid the foreign taxes to the foreign country. If your tax was withheld in foreign currency, you use the rate of exchange in effect for the date on which the tax was withheld. If you make foreign estimated tax payments, you use the rate of exchange in effect for the date on which you made the estimated tax payment.

If you claim the credit for foreign taxes on an ***accrual basis,*** you must generally use the average exchange rate for the tax year to which the taxes relate. This rule applies to accrued taxes relating to ***tax years beginning after 1997*** and only under the following conditions.

1) The foreign taxes are paid on or after the first day of the tax year to which they relate.
2) The foreign taxes are paid within 2 years after the close of the tax year to which they relate.
3) The foreign taxes are not paid in an inflationary currency.

For all other foreign taxes, you should use the exchange rate as of the time the taxes are paid.

Accrued taxes relating to tax years beginning before 1998. If you claim the credit for accrued taxes relating to tax years beginning before 1998, use the rate of exchange that was in effect on the last day of the tax year to which the taxes relate. This is a provisional or interim credit. If a different rate of exchange is in effect when you actually pay the tax, you must make an adjustment to reflect that rate. See *Tax years beginning before 1998* under *Foreign Tax Redeterminations,* earlier.

Simple Example — Filled-In Form 1116

Betsy Wilson is single, under 65, and is a U.S. citizen. She earned $21,000 working as a night auditor in Pittsburgh. She owns 200 shares in XYZ mutual fund that invests in German corporations. She received a dividend of $620 from XYZ, which withheld and paid tax of $93 to Germany on her dividend. XYZ reported this information to her on Form 1099–DIV.

Betsy elects to be exempt from the foreign tax credit limit because her only foreign taxable income is passive income (dividend of $620) and the amount of taxes paid ($93) is not more than $300. To claim the $93 as a credit, Betsy enters $93 on line 46 of Form 1040. She does not file Form 1116. However, she cannot carry any unused foreign taxes to this tax year.

If Betsy does not elect to be exempt from the foreign tax credit limit, she will need to complete a Form 1116 as follows.

To complete Form 1116, Betsy fills in her name, social security number, and checks the box for passive income. In Part I of the form she writes the name of the foreign country in column A and shows on line 1 the amount of income ($620) and type of income (dividends) she received from XYZ. Next, since Betsy does not itemize her deductions, she puts her standard deduction ($4,250) on line 3a and completes 3b and 3c. Her gross foreign source income (line 3d) is $620 and gross income from all sources (line 3e) is $21,620. She completes this section and enters $122 on line 6. Line 7 is $498, the difference between lines 1 and 6.

In Part II Betsy completes the form through line 8. This is the amount of tax XYZ withheld and paid to Germany.

In Part III Betsy figures her credit as shown on the completed form. The computation shows that she may take part of the amount paid to Germany as a credit against her U.S. income tax. Because this is the only Form 1116 that Betsy must complete, she does not need to fill in lines 22 through 29 of Part IV. The balance of the foreign tax paid to Germany is available for a carryback and/or carryover.

Comprehensive Example — Filled-In Form 1116

Robert Smith, a U.S. citizen, is a salesman who lived and worked in Country X for all of 1998, except for one week he spent in the United States on business. He is single and under 65. He is a cash-basis taxpayer who uses the calendar year as his tax year.

During the year, Robert received income from sources within Country X and the United States.

Income from United States. Robert received wages of $2,400 for services performed during the one week in the United States. He also received dividend income of $3,000 from sources within the United States.

Income from Country X. Robert received the following income from Country X during the year and paid tax on the income to Country X on December 31. The conversion rate throughout the year was 2 pesos to each U.S. dollar (2:1).

Income	Tax
$100,000 wages (200,000 pesos)	$27,400 (54,800 pesos)
$4,000 dividend income (8,000 pesos)	$600 (1,200 pesos)
$1,000 interest income (2,000 pesos)	$50 (100 pesos)

Foreign earned income. Robert is a bona fide resident of Country X and figures his allowable exclusion of foreign earned income on Form 2555, *Foreign Earned Income* (not illustrated). He excludes $72,000 of the wages earned in Country X.

Business expenses. Robert paid $3,400 of unreimbursed business expenses, of which $1,000 were definitely related to the wages earned in the U.S. and $2,400 were definitely related to wages earned in Country X.

Robert must prorate the business expenses related to the wages earned in Country X between the wages he includes on his U.S. tax return and the amount he excludes as foreign earned income. He cannot deduct the part of the expenses related to the income that he excludes. He figures his allowable expenses as follows:

$$\frac{\$28{,}000}{\$100{,}000} \times \$2{,}400 = \$672$$

He claims his expenses of $1,672 ($672 + $1,000 from U.S. business trip) as an itemized deduction on Schedule A (Form 1040), subject to the 2%-of-adjusted-gross-income limit. The balance, $1,728 ($3,400 − $1,672), is related to the excluded income and not deductible.

Itemized deductions. Robert was entitled to the following itemized deductions.

Interest on home mortgage	$2,900
Real estate tax	940
Charitable contribution	460
Employee expenses $1,672 − $768 ($38,400 × 2%)	904
Total	$5,204

Forms 1116

Robert must use two Forms 1116 to figure his allowable foreign tax credit. On one Form 1116, he will mark the block—*General limitation income—all other income from sources outside the United States,* and figure his foreign tax credit on the wages of $100,000. On the other Form 1116, he will mark the block—*Passive income,* and figure his foreign tax credit on his interest income of $1,000 and dividend income of $4,000.

Under the later discussions for each part on the Form 1116, Robert's computations are explained for ***each*** Form 1116 that must be completed. Both Forms 1116 are illustrated at the end of this publication.

Computation of Taxable Income

Before making any entries on Form 1116, Robert must figure his taxable income on Form 1040.

His taxable income is $30,496, figured as follows:

Gross Income	
Wages (Country X)	$100,000
Less: Foreign earned income exclusion	72,000
	$28,000
Wages (U.S.)	2,400
Interest income (Country X)	1,000
Dividend income (U.S.)	3,000
Dividend income (Country X)	4,000
Total (Adjusted gross income)	$38,400
Less: Total Itemized Deductions	5,204
Taxable income before the personal exemption	$33,196
Less: Personal Exemption	2,700
Taxable Income	$30,496

On each Form 1116, Robert enters $33,196 (his taxable income ***before*** the personal exemption) on line 17 of Part III.

Part I—Figuring Taxable Income or Loss From Sources Outside the United States for Category Checked Above

In figuring the limit on both Forms 1116, Robert must separately determine his taxable income from Country X (line 7 of Form 1116).

Form **1116**

Department of the Treasury
Internal Revenue Service

Foreign Tax Credit

(Individual, Estate, Trust, or Nonresident Alien Individual)

► Attach to Form 1040, 1040NR, 1041, or 990-T.

► See separate instructions.

OMB No. 1545-0121

1998

Attachment Sequence No. **19**

Name	Identifying number as shown on page 1 of your tax return
Betsy Wilson	111-00-1111

Use a separate Form 1116 for each category of income listed below. See **Categories of Income** on page 3 of the instructions. Check only one box on each Form 1116. Report all amounts in U.S. dollars except where specified in Part II below. Complete this form for credit for taxes on:

- **a** ☒ Passive income
- **b** ☐ High withholding tax interest
- **c** ☐ Financial services income
- **d** ☐ Shipping income
- **e** ☐ Dividends from a DISC or former DISC
- **f** ☐ Certain distributions from a foreign sales corporation (FSC) or former FSC
- **g** ☐ Lump-sum distributions (see page 4 of the instructions before completing form)
- **h** ☐ General limitation income—all other income from sources outside the United States (including income from sources within U.S. possessions)

i Resident of (name of country) ► United States

Note: *If you paid taxes to only one foreign country or U.S. possession, use column A in Part I and line A in Part II. If you paid taxes to* ***more than one*** *foreign country or U.S. possession, use a separate column and line for each country or possession.*

Part I Figuring Taxable Income or Loss From Sources Outside the United States for Category Checked Above

	Foreign Country or U.S. Possession A	B	C		Total (Add cols. A, B, and C.)
j **Enter the name of the foreign country or U.S. possession** ►	Germany				
1 Gross income from sources within country shown above and of the type checked above. See page 5 of the instructions: Dividends	620			1	620
Deductions and losses (***Caution:*** *See pages 6 and 7 of the instructions*):					
2 Expenses **definitely related** to the income on line 1 (attach statement)					
3 Pro rata share of other deductions **not definitely related:**					
a Certain itemized deductions or standard deduction. See instructions	4,250				
b Other deductions (attach statement)	-0-				
c Add lines 3a and 3b	4,250				
d Gross foreign source income. See instructions	620				
e Gross income from all sources. See instructions	21,620				
f Divide line 3d by line 3e. See instructions	.0287				
g Multiply line 3c by line 3f	122				
4 Pro rata share of interest expense. See instructions:					
a Home mortgage interest (use worksheet on page 7 of the instructions)					
b Other interest expense					
5 Losses from foreign sources					
6 Add lines 2, 3g, 4a, 4b, and 5	122			6	122
7 Subtract line 6 from line 1. Enter the result here and on line 14, page 2 ►				7	498

Part II Foreign Taxes Paid or Accrued (See page 8 of the instructions.)

Credit is claimed for taxes (you must check one): (k) ☒ Paid (l) ☐ Accrued

Foreign taxes paid or accrued

Country	(m) Date paid or accrued	In foreign currency – Taxes withheld at source on: (n) Dividends	(o) Rents and royalties	(p) Interest	(q) Other foreign taxes paid or accrued	In U.S. dollars – Taxes withheld at source on: (r) Dividends	(s) Rents and royalties	(t) Interest	(u) Other foreign taxes paid or accrued	(v) Total foreign taxes paid or accrued (add cols. (r) through (u))
A	12-31-98	167				93				93
B										
C										

8 Add lines A through C, column (v). Enter the total here and on line 9, page 2 ► **8** 93

For Paperwork Reduction Act Notice, see separate instructions. Cat. No. 11440U Form **1116** (1998)

Part III Figuring the Credit

9	Enter amount from line 8. These are your total foreign taxes paid or accrued for the category of income checked above Part I	9	93		
10	Carryback or carryover (attach detailed computation)	10	-0-		
11	Add lines 9 and 10	11	93		
12	Reduction in foreign taxes. See page 8 of the instructions	12	-0-		
13	Subtract line 12 from line 11. This is the total amount of foreign taxes available for credit			13	93
14	Enter amount from line 7. This is your taxable income or (loss) from sources outside the United States (before adjustments) for the category of income checked above Part I. See page 9 of the instructions	14	498		
15	Adjustments to line 14. See page 9 of the instructions	15	-0-		
16	Combine the amounts on lines 14 and 15. This is your net foreign source taxable income. (If the result is zero or less, you have no foreign tax credit for the category of income you checked above Part I. Skip lines 17 through 21.)	16	498		
17	**Individuals:** Enter amount from Form 1040, line 37. If you are a nonresident alien, enter amount from Form 1040NR, line 36. **Estates and trusts:** Enter your taxable income without the deduction for your exemption	17	17,370		
	Caution: *If you figured your tax using the special rates on capital gains, see page 10 of the instructions.*				
18	Divide line 16 by line 17. If line 16 is more than line 17, enter the figure “1”			18	.0287
19	**Individuals:** Enter amount from Form 1040, line 40, **less** any amounts on Form 1040, lines 41 through 45, and any mortgage interest credit (from Form 8396) and District of Columbia first-time homebuyer credit (from Form 8859) on line 47. If you are a nonresident alien, enter amount from Form 1040NR, line 39, less any amount on Form 1040NR, lines 40, 41, 42, and any mortgage interest credit (from Form 8396) and District of Columbia first-time homebuyer credit (from Form 8859) on line 44. **Estates and trusts:** Enter amount from Form 1041, Schedule G, line 1c, or Form 990-T, lines 36 and 37			19	2,201
20	Multiply line 19 by line 18 (maximum amount of credit)			20	63
21	Enter the amount from line 13 or line 20, whichever is **smaller.** If this is the only Form 1116 you are completing, skip lines 22 through 29 and enter this amount on line 30. Otherwise, complete the appropriate line in Part IV. See page 10 of the instructions ▶			21	63

Part IV Summary of Credits From Separate Parts III (See page 10 of the instructions.)

22	Credit for taxes on passive income	22			
23	Credit for taxes on high withholding tax interest	23			
24	Credit for taxes on financial services income	24			
25	Credit for taxes on shipping income	25			
26	Credit for taxes on dividends from a DISC or former DISC	26			
27	Credit for taxes on certain distributions from a FSC or former FSC	27			
28	Credit for taxes on lump-sum distributions	28			
29	Credit for taxes on general limitation income (all other income from sources outside the United States)	29			
30	Add lines 22 through 29			30	63
31	Reduction of credit for international boycott operations. See instructions for line 12 on page 8			31	
32	Subtract line 31 from line 30. This is your foreign tax credit. Enter here and on Form 1040, line 46; Form 1040NR, line 43; Form 1041, Schedule G, line 2a; or Form 990-T, line 39a ▶			32	63

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To figure his taxable income, Robert first reduces gross income from sources within Country X by expenses and other deductions that are definitely related to the income, and next by a ratable share of all other deductions that are not definitely related to specific income sources. Robert figures the ratable share of deductions not definitely related by using the ratio of gross income from sources within Country X to gross income from all sources. Since Robert itemizes his deductions, he does not consider the standard deduction in his allocation.

Form 1116—General limitation income. On this Form 1116, Robert figures his taxable income from Country X for income in the general limitation income category only. He does not include his passive income of interest and dividends.

Robert enters the wages earned in Country X of $28,000 (after subtracting the foreign earned income exclusion) on line 1.

The unreimbursed employee business expenses related to these foreign source wages included in income are $672, as shown earlier. Robert must allocate the 2% of adjusted gross income limit ($768) between these employee business expenses and the employee business expenses related to his U.S. source income ($1,000). He figures this as follows:

$$\frac{\$672}{\$1,672} \times \$768 = \$309$$

The denominator ($1,672) is the total allowable unreimbursed business expenses ($1,000 + $672). The amount of deductible expenses definitely related to $28,000 of taxable foreign wages is $363 ($672 − $309). He enters $363 on line 2. He attaches this explanation to his Form 1116 that he files with his tax return.

Robert enters $1,400 on line 3a. This is the sum of his real estate tax ($940) and charitable contributions ($460), which are itemized deductions not definitely related to income from any source. Robert must prorate these itemized deductions by using the ratio of gross income from Country X in the general limitation category (line 3d) to his gross income from all sources (line 3e). For this purpose, gross income from Country X and gross income from all sources includes the $72,000 of wages that qualify for the foreign earned income exclusion. He figures the ratable part of deductions, $1,268, as follows and enters it on line 3g.

$$\frac{\$100,000}{\$110,400} \times \$1,400 = \$1,268$$

Robert apportions his qualified home mortgage interest, $2,900, to general limitation income as follows:

1. Enter gross foreign source income of the type shown on Form 1116. **Do not** enter income excluded on Form 2555	$28,000
2. Enter gross income from all sources. **Do not** enter income excluded on Form 2555	$38,400
3. Divide line 1 by line 2 and enter the result as a decimal	.7292
4. Enter deductible home mortgage interest (from Schedule A (Form 1040))	$2,900
5. Multiply line 4 by the decimal on line 3. Enter the result here and on Form 1116, line 4a	$2,115

Robert enters this amount, $2,115, on line 4a.

Robert adds the amounts on lines 2, 3g, and 4a and subtracts that total ($3,746) from the amount on line 1 to arrive at foreign source taxable income of $24,254 in this category. Robert enters this amount on line 7.

Form 1116—Passive income. On this Form 1116, Robert determines the taxable income from Country X for passive interest and dividend income. He enters the $1,000 interest income and the $4,000 dividend income from Country X on line 1.

Robert figures the part of his itemized deductions allocable to passive income as follows and enters the amount on line 3g.

$$\frac{\$5,000}{\$110,400} \times \$1,400 = \$63$$

Robert apportions the qualified home mortgage interest to passive income as follows:

1. Enter gross foreign source income of the type shown on Form 1116. **Do not** enter income excluded on Form 2555	$5,000
2. Enter gross income from all sources. **Do not** enter income excluded on Form 2555	$38,400
3. Divide line 1 by line 2 and enter the result as a decimal	.1302
4. Enter deductible home mortgage interest (from Schedule A (Form 1040))	$2,900
5. Multiply line 4 by the decimal on line 3. Enter the result here and on Form 1116, line 4a	$378

He enters this amount, $378, on line 4a.

Robert adds the amounts on lines 3g and 4a and subtracts that total ($441) from the amount on line 1 to arrive at foreign source taxable income of $4,559 in this category. Robert enters this amount on line 7.

Part II—Foreign Taxes Paid or Accrued

Robert uses Part II, Form 1116, to report the foreign tax paid or accrued on income from foreign sources.

Form 1116—General limitation income. On this Form 1116, Robert enters the amount of foreign taxes paid, in foreign currency and in U.S. dollars, on the wages from Country X.

Form 1116—Passive income. On this Form 1116, Robert enters the amount of foreign taxes paid, in foreign currency and in U.S. dollars, on the interest and dividend income.

Part III—Figuring the Credit

Robert figures the amount of foreign tax credit in Part III on each Form 1116.

Form 1116—General limitation income. On this Form 1116, Robert figures the amount of foreign tax credit allowable for the foreign taxes paid on his wages from Country X. He has a carryover of $200 for unused foreign taxes paid in 1997 and enters that amount on line 10. He attaches a schedule showing how he figured his $200 carryover to 1998 after carrying back the unused $350 tax paid in 1997 to the 2 preceding tax years. (This schedule is shown in *Table 7.*) The unused foreign tax in 1997 and the excess limits in 1995 and 1996 are in the general limitation income category. The unused foreign tax of $200 is carried over to the general limitation income category in 1998.

On line 12, Robert must reduce the total foreign taxes paid by the amount related to the wages he excludes as foreign earned income. To do this, he multiplies the $27,400 foreign tax he paid on his foreign wages by a fraction. The numerator of the fraction is his foreign earned income exclusion ($72,000) minus a proportionate part of his definitely related business expenses ($1,728). The denominator of the fraction is his total foreign wages ($100,000) minus his total definitely related business expenses ($2,400).

$$\$27,400 \times \frac{(\$72,000 - \$1,728)}{(\$100,000 - \$2,400)} = \$19,728$$

He enters the result, $19,728, on line 12. His total foreign taxes available for credit are $7,872 ($200 + $27,400 − $19,728).

By completing the rest of Part III, Robert finds that his limit is $3,827.

The foreign tax credit on the general limitation income is the lesser of the foreign tax available for credit, $7,872, or the limit, $3,827.

Form 1116—Passive income. Robert now figures the foreign tax credit allowable for the foreign taxes he paid on his interest and dividend income from Country X.

By completing Part III of Form 1116, he finds that the limit on his credit is $719.

The foreign tax credit is the lesser of the foreign tax paid, $650, or the limit, $719.

Part IV—Summary of Credits From Separate Parts III

Robert summarizes his foreign tax credits for the two types of income on Part IV of ***one*** Form 1116. He uses the Part IV of Form 1116—***General limitation income.***

Robert did not participate in or cooperate with an international boycott during the tax year. The allowable foreign tax credit is, therefore, $4,477 ($650 + $3,827), shown on line 32. He also enters this amount on line 46 of Form 1040.

Unused Foreign Taxes

Robert now determines if he has any unused foreign taxes that can be used as a carryback or carryover to other tax years.

General limitation income. Robert has 1998 unused foreign taxes of $4,045 ($7,872 − $3,827) available as a carryover to 1999 and later years. (The foreign taxes related to his foreign earned income exclusion are not available for carryover.) He cannot carry back any part of the 1998 unused taxes to 1996 or 1997 as shown in *Table 7.*

Passive income. Since the tax Robert paid on his interest and dividend income is less than the amount for which he could have claimed a credit in 1998 under the limit for this separate income category, he has no unused tax and therefore no carryback or carryover to other tax years.

Form **1116**

Department of the Treasury
Internal Revenue Service

Foreign Tax Credit

(Individual, Estate, Trust, or Nonresident Alien Individual)

► Attach to Form 1040, 1040NR, 1041, or 990-T.

► See separate instructions.

OMB No. 1545-0121

1998

Attachment Sequence No. **19**

Name	**Identifying number** as shown on page 1 of your tax return
Robert Smith	000-00-0000

Use a separate Form 1116 for each category of income listed below. See **Categories of Income** on page 3 of the instructions. Check only one box on each Form 1116. Report all amounts in U.S. dollars except where specified in Part II below. Complete this form for credit for taxes on:

- **a** ☐ Passive income
- **b** ☐ High withholding tax interest
- **c** ☐ Financial services income
- **d** ☐ Shipping income
- **e** ☐ Dividends from a DISC or former DISC
- **f** ☐ Certain distributions from a foreign sales corporation (FSC) or former FSC
- **g** ☐ Lump-sum distributions (see page 4 of the instructions before completing form)
- **h** ☒ General limitation income—all other income from sources outside the United States (including income from sources within U.S. possessions)

i Resident of (name of country) ► Country X

Note: *If you paid taxes to only one foreign country or U.S. possession, use column A in Part I and line A in Part II. If you paid taxes to* ***more than one*** *foreign country or U.S. possession, use a separate column and line for each country or possession.*

Part I Figuring Taxable Income or Loss From Sources Outside the United States for Category Checked Above

	Foreign Country or U.S. Possession				Total
	A	B	C		(Add cols. A, B, and C.)
j Enter the name of the foreign country or U.S. possession ►	Country X				
1 Gross income from sources within country shown above and of the type checked above. See page 5 of the instructions: Wages	28,000			1	28,000
Deductions and losses (***Caution:*** *See pages 6 and 7 of the instructions*):					
2 Expenses **definitely related** to the income on line 1 (attach statement)	363				
3 Pro rata share of other deductions **not definitely related:**					
a Certain itemized deductions or standard deduction. See instructions	1,400				
b Other deductions (attach statement)					
c Add lines 3a and 3b	1,400				
d Gross foreign source income. See instructions	100,000				
e Gross income from all sources. See instructions	110,400				
f Divide line 3d by line 3e. See instructions	.9058				
g Multiply line 3c by line 3f	1,268				
4 Pro rata share of interest expense. See instructions:					
a Home mortgage interest (use worksheet on page 7 of the instructions)	2,115				
b Other interest expense					
5 Losses from foreign sources					
6 Add lines 2, 3g, 4a, 4b, and 5	3,746			6	3,746
7 Subtract line 6 from line 1. Enter the result here and on line 14, page 2 ►				7	24,254

Part II Foreign Taxes Paid or Accrued (See page 8 of the instructions.)

Country	Credit is claimed for taxes (you must check one) (k) ☒ Paid (l) ☐ Accrued — (m) Date paid or accrued	Foreign taxes paid or accrued — In foreign currency — Taxes withheld at source on: (n) Dividends	(o) Rents and royalties	(p) Interest	(q) Other foreign taxes paid or accrued	In U.S. dollars — Taxes withheld at source on: (r) Dividends	(s) Rents and royalties	(t) Interest	(u) Other foreign taxes paid or accrued	(v) Total foreign taxes paid or accrued (add cols. (r) through (u))
A	12-31-98				54,800				27,400	27,400
B										
C										

8 Add lines A through C, column (v). Enter the total here and on line 9, page 2 ► **8** 27,400

For Paperwork Reduction Act Notice, see separate instructions. Cat. No. 11440U Form **1116** (1998)

Part III Figuring the Credit

9	Enter amount from line 8. These are your total foreign taxes paid or accrued for the category of income checked above Part I	9	27,400		
10	Carryback or carryover (attach detailed computation)	10	200		
11	Add lines 9 and 10	11	27,600		
12	Reduction in foreign taxes. See page 8 of the instructions	12	19,728		
13	Subtract line 12 from line 11. This is the total amount of foreign taxes available for credit			13	7,872
14	Enter amount from line 7. This is your taxable income or (loss) from sources outside the United States (before adjustments) for the category of income checked above Part I. See page 9 of the instructions	14	24,254		
15	Adjustments to line 14. See page 9 of the instructions	15	-0-		
16	Combine the amounts on lines 14 and 15. This is your net foreign source taxable income. (If the result is zero or less, you have no foreign tax credit for the category of income you checked above Part I. Skip lines 17 through 21.)	16	24,254		
17	**Individuals:** Enter amount from Form 1040, line 37. If you are a nonresident alien, enter amount from Form 1040NR, line 36. **Estates and trusts:** Enter your taxable income without the deduction for your exemption	17	33,196		
	Caution: *If you figured your tax using the special rates on capital gains, see page 10 of the instructions.*				
18	Divide line 16 by line 17. If line 16 is more than line 17, enter the figure "1"			18	.7306
19	**Individuals:** Enter amount from Form 1040, line 40, **less** any amounts on Form 1040, lines 41 through 45, and any mortgage interest credit (from Form 8396) and District of Columbia first-time homebuyer credit (from Form 8859) on line 47. If you are a nonresident alien, enter amount from Form 1040NR, line 39, less any amount on Form 1040NR, lines 40, 41, 42, and any mortgage interest credit (from Form 8396) and District of Columbia first-time homebuyer credit (from Form 8859) on line 44. **Estates and trusts:** Enter amount from Form 1041, Schedule G, line 1c, or Form 990-T, lines 36 and 37			19	5,238
20	Multiply line 19 by line 18 (maximum amount of credit)			20	3,827
21	Enter the amount from line 13 or line 20, whichever is **smaller.** If this is the only Form 1116 you are completing, skip lines 22 through 29 and enter this amount on line 30. Otherwise, complete the appropriate line in Part IV. See page 10 of the instructions ▶			21	3,827

Part IV Summary of Credits From Separate Parts III (See page 10 of the instructions.)

22	Credit for taxes on passive income	22	650		
23	Credit for taxes on high withholding tax interest	23			
24	Credit for taxes on financial services income	24			
25	Credit for taxes on shipping income	25			
26	Credit for taxes on dividends from a DISC or former DISC	26			
27	Credit for taxes on certain distributions from a FSC or former FSC	27			
28	Credit for taxes on lump-sum distributions	28			
29	Credit for taxes on general limitation income (all other income from sources outside the United States)	29	3,827		
30	Add lines 22 through 29			30	4,477
31	Reduction of credit for international boycott operations. See instructions for line 12 on page 8			31	
32	Subtract line 31 from line 30. This is your foreign tax credit. Enter here and on Form 1040, line 46; Form 1040NR, line 43; Form 1041, Schedule G, line 2a; or Form 990-T, line 39a ▶			32	4,477

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Form **1116**

Department of the Treasury
Internal Revenue Service

Foreign Tax Credit

(Individual, Estate, Trust, or Nonresident Alien Individual)

► Attach to Form 1040, 1040NR, 1041, or 990-T.

► See separate instructions.

OMB No. 1545-0121

1998

Attachment Sequence No. **19**

Name: Robert Smith

Identifying number as shown on page 1 of your tax return: 000-00-0000

Use a separate Form 1116 for each category of income listed below. See **Categories of Income** on page 3 of the instructions. Check only one box on each Form 1116. Report all amounts in U.S. dollars except where specified in Part II below. Complete this form for credit for taxes on:

- **a** ☒ Passive income
- **b** ☐ High withholding tax interest
- **c** ☐ Financial services income
- **d** ☐ Shipping income
- **e** ☐ Dividends from a DISC or former DISC
- **f** ☐ Certain distributions from a foreign sales corporation (FSC) or former FSC
- **g** ☐ Lump-sum distributions (see page 4 of the instructions before completing form)
- **h** ☐ General limitation income—all other income from sources outside the United States (including income from sources within U.S. possessions)

i Resident of (name of country) ► Country X

Note: *If you paid taxes to only one foreign country or U.S. possession, use column A in Part I and line A in Part II. If you paid taxes to* ***more than one*** *foreign country or U.S. possession, use a separate column and line for each country or possession.*

Part I Figuring Taxable Income or Loss From Sources Outside the United States for Category Checked Above

	Foreign Country or U.S. Possession			Total
	A	B	C	(Add cols. A, B, and C.)
j **Enter the name of the foreign country or U.S. possession** ►	Country X			
1 Gross income from sources within country shown above and of the type checked above. See page 5 of the instructions: Dividend, Interest	5,000			**1** 5,000
Deductions and losses (***Caution:*** *See pages 6 and 7 of the instructions*):				
2 Expenses **definitely related** to the income on line 1 (attach statement)				
3 Pro rata share of other deductions **not definitely related:**				
a Certain itemized deductions or standard deduction. See instructions	1,400			
b Other deductions (attach statement)				
c Add lines 3a and 3b	1,400			
d Gross foreign source income. See instructions	5,000			
e Gross income from all sources. See instructions	110,400			
f Divide line 3d by line 3e. See instructions	.0453			
g Multiply line 3c by line 3f	63			
4 Pro rata share of interest expense. See instructions:				
a Home mortgage interest (use worksheet on page 7 of the instructions)	378			
b Other interest expense				
5 Losses from foreign sources				
6 Add lines 2, 3g, 4a, 4b, and 5	441			**6** 441
7 Subtract line 6 from line 1. Enter the result here and on line 14, page 2 ►				**7** 4,559

Part II Foreign Taxes Paid or Accrued (See page 8 of the instructions.)

Country	Credit is claimed for taxes (you must check one) (k) ☒ Paid (l) ☐ Accrued — (m) Date paid or accrued	In foreign currency — Taxes withheld at source on: (n) Dividends	(o) Rents and royalties	(p) Interest	(q) Other foreign taxes paid or accrued	In U.S. dollars — Taxes withheld at source on: (r) Dividends	(s) Rents and royalties	(t) Interest	(u) Other foreign taxes paid or accrued	(v) Total foreign taxes paid or accrued (add cols. (r) through (u))
A	12-31-98	1,200		100		600		50		650
B										
C										

8 Add lines A through C, column (v). Enter the total here and on line 9, page 2 ► **8** 650

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Part III Figuring the Credit

9	Enter amount from line 8. These are your total foreign taxes paid or accrued for the category of income checked above Part I	9	650		
10	Carryback or carryover (attach detailed computation)	10	-0-		
11	Add lines 9 and 10	11	650		
12	Reduction in foreign taxes. See page 8 of the instructions	12	-0-		
13	Subtract line 12 from line 11. This is the total amount of foreign taxes available for credit			13	650
14	Enter amount from line 7. This is your taxable income or (loss) from sources outside the United States (before adjustments) for the category of income checked above Part I. See page 9 of the instructions	14	4,559		
15	Adjustments to line 14. See page 9 of the instructions	15	-0-		
16	Combine the amounts on lines 14 and 15. This is your net foreign source taxable income. (If the result is zero or less, you have no foreign tax credit for the category of income you checked above Part I. Skip lines 17 through 21.)	16	4,559		
17	**Individuals:** Enter amount from Form 1040, line 37. If you are a nonresident alien, enter amount from Form 1040NR, line 36. **Estates and trusts:** Enter your taxable income without the deduction for your exemption	17	33,196		
	Caution: *If you figured your tax using the special rates on capital gains, see page 10 of the instructions.*				
18	Divide line 16 by line 17. If line 16 is more than line 17, enter the figure "1"			18	.1373
19	**Individuals:** Enter amount from Form 1040, line 40, **less** any amounts on Form 1040, lines 41 through 45, and any mortgage interest credit (from Form 8396) and District of Columbia first-time homebuyer credit (from Form 8859) on line 47. If you are a nonresident alien, enter amount from Form 1040NR, line 39, less any amount on Form 1040NR, lines 40, 41, 42, and any mortgage interest credit (from Form 8396) and District of Columbia first-time homebuyer credit (from Form 8859) on line 44. **Estates and trusts:** Enter amount from Form 1041, Schedule G, line 1c, or Form 990-T, lines 36 and 37			19	5,238
20	Multiply line 19 by line 18 (maximum amount of credit)			20	719
21	Enter the amount from line 13 or line 20, whichever is **smaller.** If this is the only Form 1116 you are completing, skip lines 22 through 29 and enter this amount on line 30. Otherwise, complete the appropriate line in Part IV. See page 10 of the instructions ▶			21	650

Part IV Summary of Credits From Separate Parts III (See page 10 of the instructions.)

22	Credit for taxes on passive income	22			
23	Credit for taxes on high withholding tax interest	23			
24	Credit for taxes on financial services income	24			
25	Credit for taxes on shipping income	25			
26	Credit for taxes on dividends from a DISC or former DISC	26			
27	Credit for taxes on certain distributions from a FSC or former FSC	27			
28	Credit for taxes on lump-sum distributions	28			
29	Credit for taxes on general limitation income (all other income from sources outside the United States)	29			
30	Add lines 22 through 29			30	
31	Reduction of credit for international boycott operations. See instructions for line 12 on page 8			31	
32	Subtract line 31 from line 30. This is your foreign tax credit. Enter here and on Form 1040, line 46; Form 1040NR, line 43; Form 1041, Schedule G, line 2a; or Form 990-T, line 39a ▶			32	

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Table 7. **Robert's Schedule Showing Computation of His Carryover**

	1995	1996	1997
Maximum credit allowable under limit	$450	$700	$1,200
Foreign tax paid in tax year	400	600	1,550
Unused foreign tax (+) to be carried over or excess of limit (-) over tax	- $50	- $100	+ $350
Tax credit carried back from 1997	50	100	
Net excess tax to be carried over to 1998	0	0	+ $350
Less: Carrybacks to 1995 and 1996			150
Amount carried over to 1998			$200

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TaxFax Service. Using the phone attached to your fax machine, you can receive forms, instructions, and tax information by calling **703–368–9694.** Follow the directions from the prompts. When you order forms, enter the catalog number for the form you need. The items you request will be faxed to you.

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The CD-ROM can be purchased from National Technical Information Service (NTIS) for $25.00 by calling 1–877–233–6767 or for $18.00 on the Internet at **www.irs.ustreas.gov/cdorders.** The first release is available in mid-December and the final release is available in late January.

Worksheet. **Additional Foreign Tax Credit on U.S. Income***

		COL. A	COL. B
I. U.S. tax on U.S. source income			
(U.S. source rules)			
1.	Dividends	______	______
2.	Interest	______	______
3.	Royalties	______	______
4.	Capital gain	______	______
5.	**a.** Gross earned income	______	
	b. Allocable employee business expenses	______	
	c. Net compensation. Subtract line 5b from line 5a		______
6.	**a.** Gross rent, real property	______	
	b. Direct expenses	______	
	c. Net rent. Subtract line 6b from line 6a		______
7.	Other ______	______	______
8.	Add lines 1–7 in columns A and B	______	______
9.	Enter tax from Form 1040 (see instructions)		______
10.	Enter adjusted gross income (AGI) from line 33, Form 1040		______
11.	Divide line 9 by line 10. Enter the result as a decimal. This is the average tax rate on your AGI.		______
12.	Multiply line 11 by line 8 (column B). This is your estimated U.S. tax on your U.S. source income.		______
II. Tax at source allowable under treaty			
A.	Items fully taxable by U.S.		
13.	**a.** Identify ______	______	
	b. Multiply line 13a by line 11		______
B.	Items partly taxable by U.S.		
14.	**a.** Identify ______	______	
	b. Treaty rate	______	
	c. Allowable tax at source (Multiply line 14a by 14b)		______
15.	**a.** Identify ______	______	
	b. Treaty rate	______	
	c. Allowable tax at source (Multiply line 15a by 15b)		______
16.	Total (Add lines 13b, 14c, and 15c)		______
C.	Identify each item of U.S. source income from Col. A, Step I, on which U.S. may not, under treaty, tax residents of the other country who are not U.S. citizens ______	______	
	______	______	
	______	______	
III. Additional credit			
17.	Residence country tax on U.S. source income before foreign tax credit		______
18.	Foreign tax credit allowed by residence country for U.S. income tax paid		______
19.	Maximum credit. Subtract the greater of line 16 or line 18 from line 12.		______
20.	**a.** Enter the amount from line 17	______	
	b. Enter the greater of line 16 or line 18	______	
	c. Subtract line 20b from line 20a		______
21.	Additional credit. Enter the smaller of line 19 or line 20c. Add this amount to line 32 of Part IV of Form 1116.		______

* See the discussion on *Tax Treaties* for information on when you should use this worksheet.

Worksheet Instructions. **Additional Foreign Tax Credit on U.S. Income**

STEP I

Figure the estimated tax on U.S. source income using U.S. source rules.

Lines 1–7—Enter the gross amount for each type of income in Column A, and the net amount, if appropriate, in Column B.

Line 9—Enter amount from Form 1040, line 40, less any amounts on Form 1040, lines 41 through 45, and any mortgage interest credit and District of Columbia first-time homebuyer credit on line 47.

STEP II

Determine the amount of tax that the United States is allowed to collect at source under the treaty on income of residents of the other country who are not U.S. citizens.

PART A—Income fully taxable by the United States. Identify the type and amount of income on line 13a.

PART B—Income for which treaty limits U.S. tax at source.

Lines 14–15—Identify each type and amount of income. Use the specified treaty rate. *(See Publication 901, U.S. Tax Treaties)*

PART C—Identify the items not taxable at source by the United States under the treaty.

STEP III

Figure the amount of the additional credit for foreign taxes paid or accrued on U.S. source income. The additional credit is limited to the difference between the estimated U.S. tax (STEP I) and the greater of the allowable U.S. tax at source (STEP II) or the foreign tax credit allowed by the residence country (line 18).

Line 17—Enter the amount of the residence country tax on your U.S. source income before reduction for foreign tax credits. If possible, use that fraction of the pre-credit residence country tax which U.S. source taxable income bears to total taxable income. Otherwise, report that fraction of the pre-credit foreign tax which gross U.S. income bears to total gross income for foreign tax purposes.

Line 21—This amount may be claimed as a foreign tax credit on Form 1116. Complete Form 1116 according to the instructions. Add the additional credit to line 32, Part IV, of Form 1116 and report that total on your Form 1040. File this worksheet with your Form 1040 as an attachment to Form 1116.

Index

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1 Your Rights as a Taxpayer
17 Your Federal Income Tax (For Individuals)
225 Farmer's Tax Guide
334 Tax Guide for Small Business
509 Tax Calendars for 1999
553 Highlights of 1998 Tax Changes
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3 Armed Forces' Tax Guide
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555 Community Property
556 Examination of Returns, Appeal Rights, and Claims for Refund
559 Survivors, Executors, and Administrators
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564 Mutual Fund Distributions
570 Tax Guide for Individuals With Income From U.S. Possessions
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587 Business Use of Your Home (Including Use by Day-Care Providers)
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596SP Crédito por Ingreso del Trabajo
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1544SP Informe de Pagos en Efectivo en Exceso de $10,000 (Recibidos en una Ocupación o Negocio)

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