



Instructions for Form 1116

Foreign Tax Credit (Individual, Estate, or Trust)

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

What's New

Foreign oil and gas income.

Beginning in 2009, taxes on foreign oil related income will be subject to the same rules that apply to taxes on foreign oil and gas extraction income in determining the amount allowed as a foreign tax credit. For more information, see *Taxes on combined foreign oil and gas income* under *Line 12* on page 15.

General Instructions

Election To Claim the Foreign Tax Credit Without Filing Form 1116

You may be able to claim the foreign tax credit without filing Form 1116. By making this election, the foreign tax credit limitation (lines 14 through 20 of the form) will not apply to you. This election is available only if you meet all of the following conditions.

- All of your foreign source gross income was "passive category income" (which includes most interest and dividends) (see page 3). However, for this purpose, passive income also includes (a) income subject to the special rule for high-taxed income described on page 3, and (b) certain export financing interest.
- All the income and any foreign taxes paid on it were reported to you on a qualified payee statement. Qualified payee statements include Form 1099-DIV, Form 1099-INT, Schedule

Tax Help

For more information about, or assistance with, IRS resources are available.

IRS Contacts	<ul style="list-style-type: none"> • Call 1-800-829-1040 • Call 215-515-6000 • Contact IRS in Paris, or the IRS Liaison Office in London • Write to Internal Revenue Service, P.O. Box 9308, Philadelphia, PA 19108
Publications	<ul style="list-style-type: none"> • Pub. 54, Taxation of Income from Foreign Sources • Pub. 514, Foreign Tax Credit for Individuals • Pub. 519, U.S. Taxation of Income from Foreign Sources • Pub. 570, Taxation of Income from Foreign Sources for U.S. Possession • Pub. 575, Foreign Tax Credit for Estates and Trusts

K-1 (Form 1041), Schedule K-1 (Form 1065), Schedule K-1 (Form 1065-B), Schedule K-1 (Form 1120S), or similar substitute statements.

- Your total creditable foreign taxes are not more than \$300 (\$600 if married filing a joint return).

This election is not available to estates or trusts.

If you make this election:

- You cannot carry over to any other year any foreign taxes paid or accrued in a tax year to which the election applies (but carryovers to and from other years are unaffected). See the instructions for line 10 on page 15.
- You are still required to take into account the general rules for determining whether a tax is creditable. See *Foreign Taxes Eligible for a Credit* and *Foreign Taxes Not Eligible for a Credit* on page 2.

See *Foreign Taxes Eligible for a Credit* on page 2 to determine if the taxes you paid or accrued qualify for the credit.

Do not use Form 1116 to figure a credit for taxes paid to the U.S. Virgin Islands. Instead, use Form 8689, Allocation of Individual Income Tax to the U.S. Virgin Islands.

Nonresident aliens. If you are a nonresident alien, you generally cannot take the credit. However, you may be able to take the credit if:

- You were a resident of Puerto Rico during your entire tax year, or
- You pay or accrue tax to a foreign country or U.S. possession on income from foreign sources that is effectively connected with a trade or business in the United States. But if you must pay tax to a foreign country or U.S. possession on income from U.S. sources only because you are a citizen

of that country or U.S. possession, do not use that tax in determining the amount of your credit. See section 906 for more information on the foreign tax credit allowed to a nonresident alien individual.

Credit or Deduction

If you are claiming a credit for eligible foreign taxes, you can choose to claim a credit for eligible foreign income taxes. Form 1116 is the form you are choosing to do so would allow you to claim a credit for eligible foreign income taxes on Form 1040 (Form 1040). Itemized deductions. Generally, if you take the credit for eligible foreign taxes, you can take any part of that year's foreign taxes as a deduction. However, if you take the credit for eligible foreign taxes for the year, you can take only the following taxes not allowed as a credit:

• Taxes of boycott provisions paid to certain foreign countries for which a credit has been disallowed as described in item (2) under *Foreign Taxes Not Eligible for a Credit* on page 2.

• Taxes on income or gain that are not eligible for a credit because you do not meet the period requirement, as described in item (3) or (5) under *Foreign Taxes Not Eligible for a Credit* on page 2.

• Taxes on income or gain that are not eligible for a credit because you have to make payments, as described in item (4) under *Foreign Taxes Not Eligible for a Credit* on page 2.

• Taxes paid or accrued to a foreign country in connection with the production or sale of oil or gas extracted from that country, as described in item (8) under *Foreign Taxes Not Eligible for a Credit* on page 2.

Text below is an excerpt from page 2, column 1 of instructions for IRS Form 1116, 2009.

Foreign Taxes Not Eligible for a Credit

You cannot take a credit for the following foreign taxes.

1. Taxes paid to a foreign country that you do not legally owe, including amounts eligible for refund by the foreign country. If you do not exercise your available remedies to reduce the amount of foreign tax to what you legally owe, a credit for the excess amount is not allowed.

Example. Country X withholds \$25 of tax from a payment made to you. Under the income tax treaty between the United States and Country X, you owe only \$15 and can claim a refund from Country X for the other \$10. Only \$15 is eligible for the foreign tax credit (whether or not you apply for a refund).