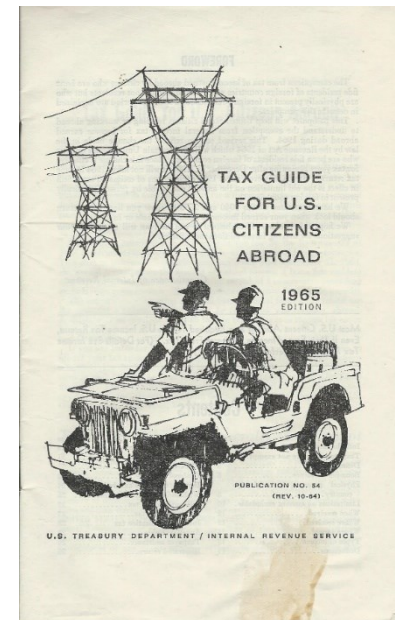


Tax Issues for US Citizens Living & Working Abroad

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Learning Objectives

- Understand that US citizens living abroad have filing requirements comparable to citizens & residents living here
- Determine if certain US taxpayers may claim the Foreign Earned Income Exclusion
- Compute Housing Exclusion for wage-earners & Housing Deduction for self-employed taxpayers
- Use the Foreign Tax Credit to mitigate the effects of double taxation

How we'll get there...

- Worldwide tax regime
- Affected taxpayers: US workers, retirees, military personnel & expats
- Eligibility for earned income exclusion: Bona fide residence vs. physical presence
- The mechanics: Form 2555
- Relief from double taxation of non-excluded income via a tax credit
- The mechanics: Form 1116

US Tax Policy

- US citizens and resident aliens must report worldwide income
- Even if income earned abroad is subject to foreign tax!
- Credits & exclusions may (?) be available to mitigate duplicative tax regimes



Citizenship-based Taxation

Did you know?

- US system is relic of Revenue Act of 1862
 - Designed to punish draft dodgers who fled to avoid fighting in Civil War
- Eritrea is only other country to have a similar tax system
 - Levies 2% flat tax on citizens who live abroad
 - UN Security Council condemned Eritrea for its “diaspora tax” [Resolution 2023, December 2011]



NOTE: The Duchess of Sussex (Meghan Markle) and her children will be subject to US taxation as long as she remains a US citizen

Department of the Treasury
Internal Revenue Service (99)

US Citizens Living Abroad

Part I Identification

1 Your name(s) (see instructions)

Address (see instructions)

- Subject to same reporting requirements as citizens & residents living in US

City, town, or post office

State

ZIP code

- Filing deadline *automatically* extended to June 15th if out of the country

- But can extend to October 15th using **Form 4868**
- **Form 2350**, in the alternative, will extend filing 30 days beyond date that qualifying tests are met for foreign earned income exclusion

- Report all income & expenses in US dollars
 - Use prevailing exchange rate at time income was received or expense paid
 - Historical rates available at www.fiscal.treasury.gov or any online currency converter



Withholdings

- US employers must withhold US tax on wages paid to US citizens abroad
 - Employer is exempt from US withholdings if required to withhold foreign income tax
 - Employee may file **Form 673** to claim exemption from withholdings if eligible for exclusions
- Subject to US Social Security (SS) tax unless Totalization Agreement in effect
 - Currently 30 countries
 - Pay SS only to country where working; if working abroad but sent on *temporary* assignment to US, pay SS abroad



Military Personnel



- Generally ineligible for Foreign Earned Income Exclusion because pay
 - is eligible for Combat Pay Exclusion,
 - is deemed non-taxable,
 - is received for services *not* in a foreign country (intl. waters & airspace), OR
 - is paid to individuals who do not have a foreign tax home
- Income:
 - Taxable = Active/reserve duty pay, special pay, re-enlistment bonus & leave
 - Non-taxable = Living/death/family/moving/travel allowances & in-kind benefits
- Automatic 2- month extension if serving abroad; additional 6-months if serving in combat zone

Tax Home vs. Abode

- Tax Home
 - = Main place of business or employment
(or where you live if no regular place of business)
 - ≠ Residence or domicile
- Abode
 - = Where taxpayer maintains family, economic & personal ties
(based on facts & circumstances)



If abode in US → NO foreign tax home
→ NO Foreign Earned Income Exclusion



Polling Question # 1

The US is one of a few countries throughout the world that employs a citizenship-based tax system.

- True
- False

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Taxable Income

- All foreign earned income subject to US tax unless eligible for:
 - Foreign Earned Income Exclusion
 - Foreign Housing Exclusion
 - Foreign Housing Deduction
- Amounts excluded must be added back when computing regular & AMT liabilities
→ bumps taxable income into higher marginal tax bracket

Taxpayer received \$80K foreign income & \$20K US-source income...

\$80K	<i>Foreign Earned Income</i>
+ <u>20K</u>	<i>Other Income</i>
\$100K	<i>Gross Income</i>
- <u>80K</u>	<i>Foreign Earned Income Exclusion</i>
\$20K	<i>Taxable Income</i>

**BUT taxed at marginal
bracket of \$100K!!!**

To Qualify for Exclusions...

- Must be US citizen or resident alien (*not* NRA)
- Must have *foreign* earned income
 - Source determined where services are performed, not payment received
- Must pass either test:
 - **Bona Fide Residence (BFR)** – reside in foreign country > 1 full tax year from January 1st through December 31st
 - **Physical Presence Test (PPT)** – be physically present in foreign country ≥ 330 days during any consecutive 12-month period
- Must have tax home in foreign country – no US abode
 - “Foreign” is any territory *not* under US sovereignty
 - Guam, Am. Samoa, US Virgin Islands, Puerto Rico & territorial waters = US
 - International airspace & waters ≠ foreign
 - Antarctica ≠ foreign (sovereign-less region)

Examples of Qualified Taxpayers

Example 1:

US citizen lived in Germany from 9/1/20 – 10/31/22 (14 months)

➔ Fails BFR since not in Germany for full *calendar* year (will pass PPT in 2022)

Example 2:

US citizen employed on oil rig off UK coast with 28-day on/28-day off schedule; returns to US during off-periods

➔ Fails both BFR & PPT with abode in US & no tax home abroad

Example 3:

US Executive transferred to Paris for ≥ 18 months, but kept US house. Moved family, furniture & pets, obtained foreign driving license, opened local bank acct

➔ Passes both BFR & PPT with tax home in foreign country

Example 4:

Contractor provided services to military in Afghanistan & Iraq; was not allowed to leave base. Family stayed at home in US.

➔ Fails both BFR & PPT since he did nothing to establish residence abroad

BUT Bipartisan Budget Act of 2018 allows military contractors in combat zones to claim exclusion

For U.S. Citizens and Resident Aliens Abroad Who Expect To Qualify for Special Tax Treatment

2019

Department of the Treasury
Internal Revenue Service

▶ See instructions on page 3.
▶ Go to www.irs.gov/form2350 for more information.

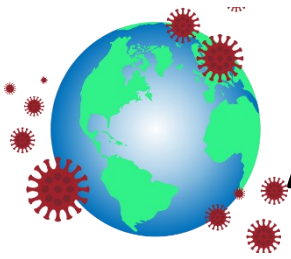
Day Count

Please print or type.	Your first name and middle initial(s)		Your social security number
	If a joint return, spouse's first name and middle initial(s)	Last name	Spouse's social security number
File by the due date for filing your return.	Foreign country name		Foreign province/county
	Foreign postal code		

5-year entry/departure history available on I-94 website

- Only FULL days count
 - Dates of arrival & departure not counted
- If unable to satisfy time limits by due date, file **Form 2350**
 - Extension will be granted for 30 days beyond date of test's time limit

• Or, amend a prior-year return on which income exclusion not claimed because not yet in-country for the requisite 330 days



Absence due to Pandemic

- Day count suspended for time spent in US if travel impacted due to COVID-19
 - Left foreign country on/after 12/1/19 (China) or 2/1/20 (all others) and before 7/15/20
 - Individual must have residency or physical presence in-country prior to departure
 - Individual must have expected to satisfy BFR or PPT but for COVID-related travel disruption

Example

Taxpayer was physically present in Poland at year-start & expected to remain through year-end

Taxpayer traveled to US in early March to care for elderly parents but could not return to Poland until August

→ Despite absence, taxpayer qualifies for PPT day count as per COVID relief

- **NOTE:** US citizens abroad may qualify for Stimulus Relief (EIP) if Foreign Earned Income Exclusion helps to drop income below eligibility threshold

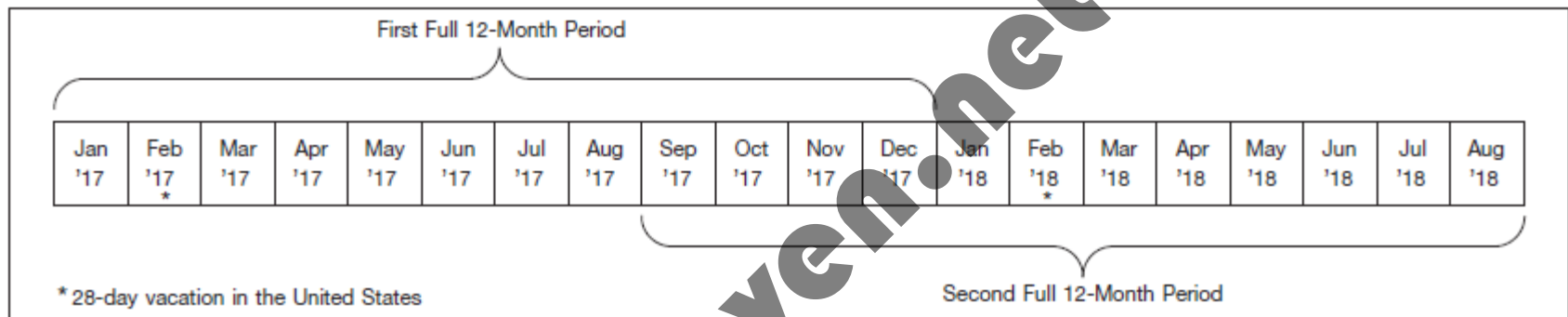
PPT: 12-month period

- Can begin with any day of the month
- Must be consecutive months
- Need not start with first full day in a foreign country or end with last day BUT can choose any 12-month period that gives greatest exclusion
- 12-month periods can overlap one another
- Can be spent in > 1 foreign country (just not US)
- Vacation time abroad counts



EXAMPLE: Overlapping Period

- Ethan worked in New Zealand from January 1, 2017 - August 31, 2018 (20 months) and spent 28 days each February on vacation in US



- ➔ Ethan qualifies for PPT because he spent at least 330 full days during two 12-month periods
 - January 1, 2020 – December 31, 2020 and
 - September 1, 2020 – August 31, 2021

Special BFR & PPT Rules

- Taxpayer who has certified to a foreign government that he is not a resident of host country cannot satisfy BFR
- Taxpayer ineligible for exclusion/deductions if living in foreign country in violation of US law (e.g. Cuba)

Taxpayers serving at Guantanamo Bay are eligible

- Time limits may be waived if taxpayer is forced to leave foreign country due to war
 - Afghanistan, Burma, Chad, Ethiopia & Iraq (TY'21)



Polling Question # 2

The day count for the PPT:

- A. May use any consecutive 12-month period.
- B. Must begin on the date of arrival and end of the date of departure.

- A only.
- B only.
- Both A and B.

Foreign Earned Income Exclusion

Name shown on Form 1040 or 1040-SR	Your social security number
------------------------------------	-----------------------------

- Earned income must be received for personal services performed

Part I General Information

1 Your foreign address (including country)	2 Your occupation
3 Employer's name	
4a Employer's U.S. address	
b NOTE: Excluded income may be subject to Social Security Tax	
5 Employer is (check any that apply):	
a <input type="checkbox"/> A foreign entity	b <input type="checkbox"/> A U.S. company
c <input type="checkbox"/> Self	d <input type="checkbox"/> A foreign affiliate of a U.S. company
e <input type="checkbox"/> Other (specify)	
6a Max exclusion (\$112,000/person in 2022)	
b = Foreign earned income – Foreign housing exclusion claimed	
c <input type="checkbox"/> Yes <input type="checkbox"/> No	
7 Of what country are you a citizen/national?	
8a Use Form 2555	
b May use Form 2555EZ if income < max exclusion amount, no SE earnings & no housing exclusion/deduction claimed	
9	

- Exclusion must be affirmatively elected by filing tax return
- May claim on late-filed return no later than 1 year after original due date



Foreign Housing Exclusion

- Amounts received for employer-provided housing are eligible for exclusion
 - ELIGIBLE COSTS: Rent, repairs, utilities, insurance, occupancy taxes, furniture rental & parking
 - NOT ELIGIBLE: Deductible mortgage interest & property taxes, leasehold improvements, depreciation & cost of domestic labor not eligible
- “Employer-provided”
 - All wage & salary earnings except self-employment
 - It is presumed that employee uses employer-provided funds (wages) to pay for housing

ALL qualified housing expenses – whether paid by employer or employee – are eligible for exclusion

- Total housing expenses may not exceed foreign earned income

Housing Exclusion Limitations

- Only amounts in excess of government-calculated base amount are excludable
 - Base amount = 16% of allowable Income Exclusion pro-rated on daily basis
 - In 2022: $\$112,000 \times 16\% \div 365 \text{ days} = \$49.10/\text{day}$
- Housing Exclusion limited to maximum 30% of Income Exclusion
 - In 2022: Expenses between \$49.10 and 92.05/day are excludable

Max Housing Exclusion in 2022 = \$15,680

- Certain high-cost locales eligible for additional exclusion amounts

Housing & Income Exclusions

- Housing Exclusion must be claimed *before* Income Exclusion
- Housing Exclusion may be claimed *in addition to* Income Exclusion
 - Housing Exclusion claimed on Line 36 of **Form 2555**
 - Income Exclusion claimed on Line 42
 - Total allowable exclusion on Line 43 equals sum of Lines 36 & 42



- Combined exclusion could exceed annual threshold [\$112,000 in 2022]

In 2022, Joe's foreign earned income equals \$150,000 (greater than allowable Income Exclusion of \$112,000)

Joe may claim Income Exclusion of \$112,000 plus Housing Exclusion of \$15,680

→ Total exclusions that can be claimed = \$127,680

Foreign Housing Deduction

- Available only to self-employed
- Cannot exceed foreign earned income less Income and/or Housing Exclusion claimed
- Excess deductions may be carried over 1 year
- Deduction is calculated like Exclusion but claimed as an Adjustment to Income – enter on *Form 1040*, Schedule 1, Line 8 with notation “Form 2555”

Carry-over not available for Housing Exclusion

Example: Housing Deduction

- In 2022, Felipe earned \$130K incl. \$65K from wages & \$65K from self-employment
- Housing expenses totaled \$12K, one-half was employer-provided

Step 1: Compute Housing Exclusion
 → Taxpayer may claim \$6,000

Step 2: Compute Income Exclusion

65,000	Income Exclusion (wages)
<u>65,000</u>	Income Exclusion (self-employment earnings)
130,000	Total Earnings
- 6,000	LESS: Housing Exclusion
<u>- 112,000</u>	LESS: Income Exclusion (max. in 2022)
12,000	Taxable Income (in excess of annual exclusion limit)

Example: Housing Deduction (cont'd)

Step 3: Compute Housing Deduction
 \$6K eligible but Felipe exceeded the limitation (\$112,000 in 2022)
 → Carry deduction forward to 2023

On 1040: Complete Return

130,000	Gross Income
<u>-118,000</u>	Income & Housing Exclusions (= \$112,000 + 6,000)
12,000	Adjusted Gross Income
and 6,000	Carry-forward to TY'23





Polling Question # 3

The cost of employer-provided housing may be claimed when computing the Foreign Housing Deduction.

- Yes
- No

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Form 2555

Part I: General Taxpayer Info

Form 2555	Foreign Earned Income	OMB No. 1545-0074
Department of the Treasury Internal Revenue Service	▶ See separate instructions. ▶ Attach to Form 1040.	20 Attachment Sequence No. 04
For Use by U.S. Citizens and Resident Aliens Only		
Name shown on Form 1040		Your social security number
Part I General Information		
1 Your foreign address (including country)		2 Your occupation
3 Employer's name ▶		
4a Employer's U.S. address ▶		
b Employer's foreign address ▶		
5 Employer is (check any that apply):		
a <input type="checkbox"/> A foreign entity		
b <input type="checkbox"/> A U.S. company		
c <input type="checkbox"/> Self		
d <input type="checkbox"/> A foreign affiliate of a U.S. company		
e <input type="checkbox"/> Other (specify) ▶		
6a If, after 1981, you filed Form 2555 or Form 2555-EZ, enter the last year you filed the form. ▶		
b If you did not file Form 2555 or 2555-EZ after 1981 to claim either of the exclusions, check here <input type="checkbox"/> and go to line 7.		
c Have you ever revoked either of the exclusions? <input type="checkbox"/> Yes <input type="checkbox"/> No		
d If you answered "Yes," enter the type of exclusion and the tax year for which the revocation was effective. ▶		
7 Of what country are you a citizen/national? ▶		
8a Did you maintain a separate foreign residence for your family because of adverse living conditions at your tax home? See Second foreign household in the instructions <input type="checkbox"/> Yes <input type="checkbox"/> No		
b If "Yes," enter city and country of the separate foreign residence. Also, enter the number of days during your tax year that you maintained a second household at that address. ▶		
9 List your tax home(s) during your tax year and date(s) established. ▶		

Form 2555

Part II: Bona Fide Residence?

Part II Taxpayers Qualifying Under Bona Fide Residence Test (see instructions)

- 10 Date bona fide residence began ▶ _____, and ended ▶ _____
- 11 Kind of living quarters in foreign country ▶ a Purchased house b Rented house or apartment c Rented room
d Quarters furnished by employer
- 12a Did any of your family live with you abroad during any part of the tax year? Yes No
b If "Yes," who and for what period? ▶ _____
- 13a Have you submitted a statement to the authorities of the foreign country where you claim bona fide residence that you are not a resident of that country? See instructions Yes No
b Are you required to pay income tax to the country where you claim bona fide residence? See instructions Yes No
If you answered "Yes" to 13a and "No" to 13b, you do not qualify as a bona fide resident. Do not complete the rest of this part.
- 14 If you were present in the United States or its possessions during the tax year, complete columns (a)-(d) below. Do not include the income from column (d) in Part IV, but report it on Form 1040.

(a) Date arrived in U.S.	(b) Date left U.S.	(c) Number of days in U.S. on business	(d) Income earned in U.S. on business (attach computation)	(a) Date arrived in U.S.	(b) Date left U.S.	(c) Number of days in U.S. on business	(d) Income earned in U.S. on business (attach computation)

- 15a List any contractual terms or other conditions relating to the length of your employment abroad. ▶ _____
- b Enter the type of visa under which you entered the foreign country. ▶ _____
- c Did your visa limit the length of your stay or employment in a foreign country? If "Yes," attach explanation Yes No
- d Did you maintain a home in the United States while living abroad? Yes No
- e If "Yes," enter address of your home, whether it was rented, the names of the occupants, and their relationship to you. ▶ _____

Taxpayer must reside in foreign country 1 full calendar year from January 1st through December 31st

Form 2555

Part III: Physical Presence?

Part III Taxpayers Qualifying Under Physical Presence Test (see instructions)

- 16 The physical presence test is based on the 12-month period from _____ through _____
- 17 Enter your principal country of employment during your tax year. _____
- 18 If you traveled abroad during the 12-month period entered on line 16, complete columns (a)–(f) below. Exclude travel between foreign countries that did not involve travel on or over international waters, or in or over the United States, for 24 hours or more. If you have no travel to report during the period, enter "Physically present in a foreign country or countries for the entire 12-month period." Do not include the income from column (f) below in Part IV, but report it on Form 1040.

(a) Name of country (including U.S.)	(b) Date arrived	(c) Date left	(d) Full days present in country	(e) Number of days in U.S. on business	(f) Income earned in U.S. on business (attach computation)

- Taxpayer must be physically present in foreign country ≥ 330 days during any consecutive 12-month period.
- Once PPT is satisfied, taxpayer may amend a prior-year return to claim pro-rated Exclusion based on number of days present during tax (calendar) year.

Form 2555

Part IV: Calculate Foreign Income

Part IV All Taxpayers

Note: Enter on lines 19 through 23 all income, including noncash income, you earned and actually or constructively received during your 2011 tax year for services you performed in a foreign country. If any of the foreign earned income received this tax year was earned in a prior tax year, or will be earned in a later tax year (such as a bonus), see the instructions. Do not include income from line 14, column (d), or line 18, column (f). Report amounts in U.S. dollars, using the exchange rates in effect when you actually or constructively received the income.

If you are a cash basis taxpayer, report on Form 1040 all income you received in 2011, no matter when you performed the service.

2011 Foreign Earned Income		Amount (in U.S. dollars)	
19	Total wages, salaries, bonuses, commissions, etc.	19	
20	Allowable share of income for personal services performed (see instructions):		
a	In a business (including farming) or profession	20a	
b	In a partnership. List partnership's name and address and type of income. ▶	20b	
21	Noncash income (market value of property or facilities furnished by employer—attach statement showing how it was determined):		
a	Home (lodging)	21a	
b	Meals	21b	
c	Car	21c	
d	Other property or facilities. List type and amount. ▶	21d	
22	Allowances, reimbursements, or expenses paid on your behalf for services you performed:		
a	Cost of living and overseas differential	22a	
b	Family	22b	
c	Education	22c	
d	Home leave	22d	
e	Quarters	22e	
f	For any other purpose. List type and amount. ▶	22f	
g	Add lines 22a through 22f	22g	
23	Other foreign earned income. List type and amount. ▶	23	
24	Add lines 19 through 21d, line 22g, and line 23	24	
25	Total amount of meals and lodging included on line 24 that is excludable (see instructions)	25	
26	Subtract line 25 from line 24. Enter the result here and on line 27 on page 3. This is your 2011 foreign earned income ▶	26	

Form 2555 (2011)

Form 2555

Pts V - VIII: Housing & Income Exclusions

Form 2555 (2011)

Page 3

Part V All Taxpayers

27	Enter the amount from line 26	27		
	Are you claiming the housing exclusion or housing deduction?			
	<input type="checkbox"/> Yes. Complete Part VI.			
	<input type="checkbox"/> No. Go to Part VII.			

Part VI Taxpayers Claiming the Housing Exclusion and/or Deduction

28	Qualified housing expenses for the tax year (see instructions)	28		
29a	Enter location where housing expenses incurred (see instructions) ▶			
29b	Enter limit on housing expenses (see instructions)	29b		
30	Enter the smaller of line 28 or line 29b	30		
31	Number of days in your qualifying period that fall within your 2011 tax year (see instructions)	31		days
32	Multiply \$40.72 by the number of days on line 31. If 365 is entered on line 31, enter \$14,864.00 here	32		
33	Subtract line 32 from line 30. If the result is zero or less, do not complete the rest of this part or any of Part IX	33		
34	Enter employer-provided amounts (see instructions)	34		
35	Divide line 34 by line 27. Enter the result as a decimal (rounded to at least three places), but do not enter more than "1.000"	35		x
36	Housing exclusion. Multiply line 33 by line 35. Enter the result but do not enter more than the amount on line 34. Also, complete Part VIII ▶ Note: The housing deduction is figured in Part IX. If you choose to claim the foreign earned income exclusion, complete Parts VII and VIII before Part IX.	36		

Part VII Taxpayers Claiming the Foreign Earned Income Exclusion

37	Maximum foreign earned income exclusion	37	\$32,900	00
38	• If you completed Part VI, enter the number from line 31. • All others, enter the number of days in your qualifying period that fall within your 2011 tax year (see the instructions for line 31).	38		days
39	• If line 38 and the number of days in your 2011 tax year (usually 365) are the same, enter "1.000." • Otherwise, divide line 38 by the number of days in your 2011 tax year and enter the result as a decimal (rounded to at least three places).	39		x
40	Multiply line 37 by line 39	40		
41	Subtract line 36 from line 27	41		
42	Foreign earned income exclusion. Enter the smaller of line 40 or line 41. Also, complete Part VIII ▶	42		

Part VIII Taxpayers Claiming the Housing Exclusion, Foreign Earned Income Exclusion, or Both

43	Add lines 36 and 42	43		
44	Deductions allowed in figuring your adjusted gross income (Form 1040, line 37) that are allocable to the excluded income. See instructions and attach computation	44		
45	Subtract line 44 from line 43. Enter the result here and in parentheses on Form 1040, line 21. Next to the amount enter "Form 2555." On Form 1040, subtract this amount from your income to arrive at total income on Form 1040, line 22	45		



Form 2555

Part IX: Housing Deduction

Part IX Taxpayers Claiming the Housing Deduction— Complete this part only if (a) line 33 is more than line 36 and (b) line 27 is more than line 43.			
46	Subtract line 36 from line 33	46	
47	Subtract line 43 from line 27	47	
48	Enter the smaller of line 46 or line 47	48	
	<i>Note: If line 47 is more than line 48 and you could not deduct all of your 2010 housing deduction because of the 2010 limit, use the worksheet on page 4 of the instructions to figure the amount to enter on line 49. Otherwise, go to line 50.</i>		
49	Housing deduction carryover from 2010 (from worksheet on page 4 of the instructions)	49	
50	Housing deduction. Add lines 48 and 49. Enter the total here and on Form 1040 to the left of line 36. Next to the amount on Form 1040, enter "Form 2555." Add it to the total adjustments reported on that line	50	

Form 2555 (2011)

Form 1040, Schedule 1

SCHEDULE 1 (Form 1040)		Additional Income and Adjustments to Income		OMB No. 1545-0074
Department of the Treasury Internal Revenue Service		▶ Attach to Form 1040. ▶ Go to www.irs.gov/Form1040 for instructions and the latest information.		20 Attachment Sequence No. 01
Name(s) shown on Form 1040			Your social security number	
Additional Income	1-9b	Reserved		1-9b
	10	Taxable refunds, credits, or offsets of state and local income taxes		10
	11	Alimony received		11
	12	Business income or (loss). Attach Schedule C or C-EZ		12
	13	Capital gain or (loss). Attach Schedule D if required. If not required, check here <input type="checkbox"/>		13
	14	Other gains or (losses). Attach Form 4797		14
	15a	Reserved		15b
	16a	Reserved		16b
	17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E		17
	18	Farm income or (loss). Attach Schedule F		18
	19	Unemployment compensation		19
	20a	Reserved		20b
21	Other income. List type and amount ▶ FORM 2555		21	
22	Combine the amounts in the far right column. If you don't have any adjustments to income, enter here and include on Form 1040, line 6. Otherwise, go to line 23		22	
Adjustments to Income	23	Educator expenses	23	
	24	Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106	24	
	25	Health savings account deduction. Attach Form 8889	25	
	26	Moving expenses for members of the Armed Forces. Attach Form 3903	26	
	27	Deductible part of self-employment tax. Attach Schedule SE	27	
	28	Self-employed SEP, SIMPLE, and qualified plans	28	
	29	Self-employed health insurance deduction	29	
	30	Penalty on early withdrawal of savings	30	
	31a	Alimony paid b Recipient's SSN ▶	31a	
	32	IRA deduction	32	
	33	Student loan interest deduction	33	
	34	Reserved	34	
	35	Reserved	35	
	36	Add lines 23 through 35 FORM 2555		36

REMINDER: Enter foreign wages on Form 1040, Line 7 and/or foreign self-employment income on Line 12

Foreign Earned Income and Housing Exclusion [from Form 2555, Part VIII]

Foreign Housing Deduction [from Form 2555, Part IX]



Polling Question # 4

The Foreign Earned Income Exclusion is computed on Form 2555 prior to the Foreign Housing Exclusion.

- True
- False

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Foreign Tax Credit (or Deduction)

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

- Taxpayer may elect to claim foreign taxes paid as a non-refundable Credit (Form 1116) or as Deduction (Schedule A)
- EXCEPT** may claim credit directly on **Form 1040**, Schedule 3, Line 48 if only foreign interest & dividends on stocks held ≥ 16 days & foreign tax liability $<$ \$300 (Single) or \$600 (MFJ)

	Foreign Country or U.S. Possession			Total (Add cols. A, B, and C.)
	A	B	C	
i Enter the name of the foreign country or U.S. possession:				
1a				1a
b				

- Credit/Deduction may not be claimed on foreign taxes
 - imposed by countries not recognized by US govt.
 - that would be refundable if taxpayer filed a claim
 - connected to certain oil and gas transactions
- Available only to US citizens and resident aliens



Credit vs. Deduction

Advantage to Credit

- Credit offers dollar-for-dollar reduction of tax liability
- Cash-basis taxpayer may choose to take the credit in the year foreign taxes are paid or accrued
- Unused credit may be carried back 1 year and carried forward 10 years
- Credit is preferable if foreign tax rates > US tax rates

Advantage to Deduction

- Deduction is available for other taxes (not just income)
- Deduction removes income from AGI → taxpayer may benefit from Schedule A deductions otherwise limited by AGI

Choice to use credit or deduction may be made annually but is applicable to *all* foreign taxes in that year

Can amend return for up to 10 years after due date (w/o extension)

- EXAMPLE: May amend to claim Credit for certain Soc. Security taxes paid to France now deemed to have been *income* taxes
- If changing to Deduction, refund claim will be limited by SOL

No Credit for Excluded Income

- Taxpayer claimed Earned Income Exclusion on \$70K wages
- Paid foreign income tax of \$10K on wage income to India
- Received \$2K dividends from India
- Paid foreign income tax of \$600 on dividend income to India



\$70,000	Wages
<u>+2,000</u>	Dividends
\$72,000	Total Income
<u>-70,000</u>	Foreign Earned Income Exclusion
\$2,000	Taxable Income [taxed at marginal rate applicable to \$72,000]

→ **May only claim \$600 Foreign Tax Credit (Deduction) since remaining tax was attributable excluded income**

Foreign Tax Limitations

- Credit (Deduction) limited to lesser of:
 - US tax that would have been paid on foreign income, or
 - the actual foreign tax paid*

* or treaty rate (if < statutory rate)

Facts

- US citizen's income subject to 60% tax rate in Germany
 - Same income would be subject to only 25% in US
- ➔ maximum allowable Credit (Deduction) is amount of tax at 25% rate
- ➔ excess tax paid eligible for 1 year carry-back & 10-year carry-forward
- [Credit expires if unused]

If foreign tax rate < US tax rate, taxpayer will be liable for difference on Form 1040

EXAMPLE: Reduced Treaty Rate

- \$2K dividend income (subject to treaty tax rate of 15% *if* withholding agent notified)
- Taxpayer failed to notify → tax w/h at 35%
- Max creditable foreign tax = \$300
- Excess withholdings non-refundable

Oops!



Polling Question # 5

Foreign taxes paid on excluded foreign earned income may:

- Be claimed as a credit on Form 1116
- Be claimed as a deduction on Schedule A
- Not be claimed.

Calculating Maximum Credit

Foreign Source Taxable Income

x US Inc Tax before Credit

Worldwide Taxable Income

- Credits must be separately calculated for each income category (7)
- Unused credits must be carried back 1 year, then forward 10 years
- Carried amounts can only be used if foreign income reported on return

Foreign Income from Multiple Countries

During the tax year, Taxpayer received and paid taxes to:

Country	Income	Taxes Paid
Austria	20,000.	5,000.
Belgium	10,000.	3,000.
USA	50,000.	10,000.

1. Total Foreign Taxes Paid = \$5K + 3K = \$8K
2. Maximum FTC = $(\$20K + 10K \text{ foreign income}) \div (\$20K + 10K + 50K \text{ worldwide income}) \times \$10K \text{ US tax paid} = \$3,750$

Allowable FTC = Lesser of actual tax paid (# 1) or max. FTC (# 2) = \$3,750

➔ That leaves \$4,250 (= \$8,000 – 3,750) of unused foreign tax paid (which means some of the foreign income will have been doubly taxed)

➔ Unused FTC balance carried back 1 yr and then carried forward 10 yrs

1. **§951A: Global intangible low-taxed income(GILTI) included in gross income of US shareholders of foreign corp [new since TCJA]**

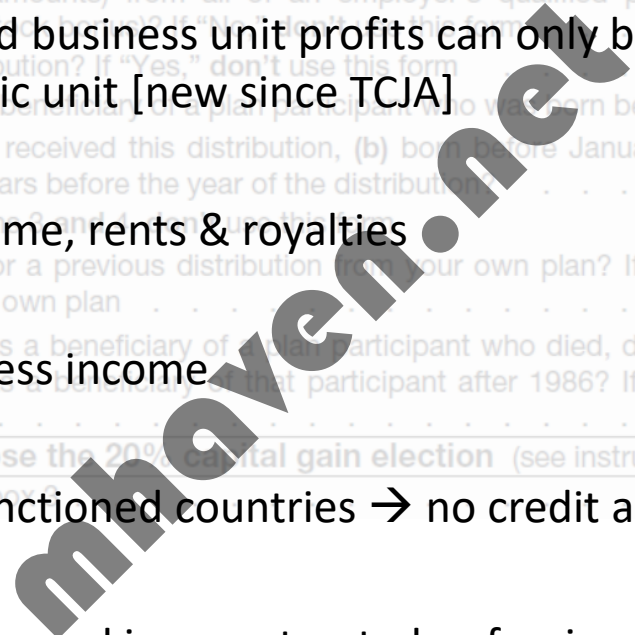
Part I		Yes	No
1	Was this a distribution of a plan participant's entire balance (excluding deductible voluntary employee contributions and certain forfeited amounts) from all of an employer's qualified plans of one kind (for		
2	Foreign Branch: Qualified business unit profits can only be offset by foreign taxes attributable to the specific unit [new since TCJA]		
3	Did you roll over any part of the distribution? If "Yes," don't use this form		
4	Were you (a) a plan participant who received this distribution, (b) born before January 2, 1936, and (c) a participant in the plan for at least 5 years before the year of the distribution		
3.	Passive: Investment income, rents & royalties		
5a	Did you use Form 4972 after 1986 for a previous distribution from your own plan? If "Yes," don't use this form for a 2019 distribution from your own plan		
4.	General: Wages & business income		
5b	If you are receiving this distribution as a beneficiary of a plan participant who died, did you use Form 4972 for this distribution		

Part II Complete this part to choose the 20% capital gain election (see instructions)

5. **§901(j): Income from sanctioned countries → no credit allowed**

6. **Treaty re-sourced: US-sourced income treated as foreign-source [file Form 8833 to claim treaty position]**

7. **Lump-sum distributions: Pensions & annuities [File Form 4972 for annualized tax treatment]**



Category Rules

- Separate *Form 1116* must be filed for each category
- Foreign tax must be allocated to each category based on ratio of category income to total income
- Expenses must be apportioned to each category based on foreign (or US) tax law



Example: Category Allocation

- Wages (\$100K) + interest (\$5K) - deductions (\$2,100) = 102.9K net
- Foreign tax paid (\$6,400)

Step 1: Allocate expenses

$$100\text{K}/105\text{K} \times 2,100 = 2\text{K} \text{ "wage" expenses}$$

Step 2: Calculate net category income

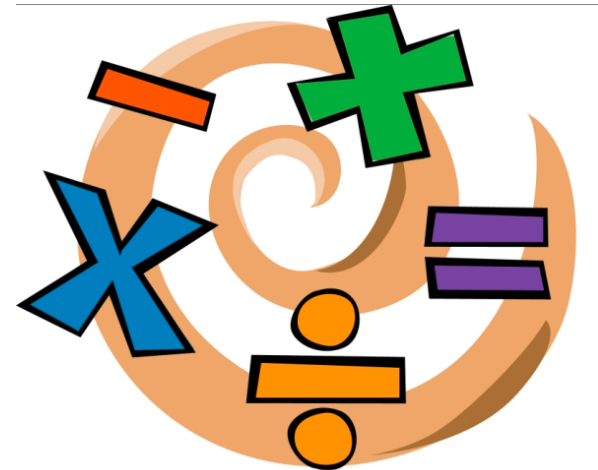
$$100\text{K} - 2\text{K} = 98\text{K} \text{ net "wage" income}$$

Step 3: Allocate foreign tax

$$98\text{K}/102.9\text{K} \times 6,400 = 6,095 \text{ "wage" taxes}$$

➔ Report on *Form 1116* (General Category)

Interest reported as Passive Category on another *Form 1116* (\$4,900 net & \$305 foreign tax)



Foreign Tax Credit: Rules

- Income, expenses & taxes must be reported in USD
 - Convert using Treasury rates or any online exchange rate provider
- May claim credit for taxes paid or accrued
 - Even cash-basis taxpayer
 - Must use separate *Form 1116*
 - If foreign tax return unavailable to substantiate accrued taxes, taxpayer must submit statement with computation
 - Once elected, accrued taxes must be forever reported

More Rules

- Foreign-source income must be adjusted for foreign capital gains eligible for LTCG & other favorable rates on US return
- Interest expense must be allocated between foreign and US-source income
- *Gross* (not net) business income must be used to determine foreign taxable income
- Foreign salaries must be sourced to country based on time spent (if total foreign and US wages > \$250K)

Foreign Tax

Did you know?

- As per applicable tax treaties, US may collect tax on behalf of a *foreign* government
 - Foreign country must certify that revenue claim has been “finally determined”
 - All administrative & judicial rights of taxpayer in foreign country have lapsed or been exhausted
 - US may now collect as if the debt were its own
- Taxpayer has no further defenses (in US or abroad)

Dileng v Comm, 1:15-CV-1777-WSD (ND GA) (January 15, 2016)





Polling Question # 6

Foreign taxes attributable to different categories of income must be reported on separate Forms 1116.

- True
- False

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Form 1116

Part I: Foreign Taxable Income

Form **1116** Foreign Tax Credit (Individual, Estate, or Trust)

Department of the Treasury Internal Revenue Service (99)

OMB No. 1545-0047 1

20 Attachment Sequence (see instructions)

Name _____ Identifying number as shown on page 1 of your tax return _____

Use a separate Form 1116 for each category of income listed below. See Categories of Income in the instructions. Check only one box on each Form 1116. Report all amounts in U.S. dollars except where specified in Part II below.

Section 951A category income Passive category income Section 901(j) income Lump-sum distributions
 Foreign branch category income General category income Certain income re-sourced by treaty

h Resident of (name of country) ▶ _____

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 Taxable Income or Loss From Sources Outside the United States (for category checked above)

i	Enter the name of the foreign country or U.S. possession ▶	Foreign Country or U.S. Possession			Total (Add cols. A, B, and C.)
		A	B	C	
1a	Gross income from sources within country shown above and of the type checked above (see instructions):				1a
b	Check if line 1a is compensation for personal services as an employee, your total compensation from all sources is \$250,000 or more, and you used an alternative basis to determine its source (see instructions) ▶ <input type="checkbox"/>				
Deductions and losses (Caution: See instructions):					
2	Expenses definitely related to the income on line 1a (attach statement)				
3	Pro rata share of other deductions not definitely related :				
a	Certain itemized deductions or standard deduction (see instructions)				
b	Other deductions (attach statement)				
c	Add lines 3a and 3b				
d	Gross foreign source income (see instructions)				
e	Gross income from all sources (see instructions)				
f	Divide line 3d by line 3e (see instructions)				
g	Multiply line 3c by line 3f				
4	Pro rata share of interest expense (see instructions):				
a	Home mortgage interest (use the Worksheet for Home Mortgage Interest in the instructions)				
b	Other interest expense				
5	Losses from foreign sources				
6	Add lines 2, 3g, 4a, 4b, and 5				6
7	Subtract line 6 from line 1a. Enter the result here and on line 15, page 2				7

Taxpayer must file separate **Forms 1116** for each type of income.

“Passive” category includes most investment income, rents & annuities.

“General” category includes wages & business income.

Form 1116

Part II: Foreign Taxes

Part II Foreign Taxes Paid or Accrued (see instructions)

Country	Credit is claimed for taxes (you must check one)		Foreign taxes paid or accrued							
	(h) <input type="checkbox"/> Paid (i) <input type="checkbox"/> Accrued		In foreign currency				In U.S. dollars			
	<input type="checkbox"/> State paid or accrued	Taxes withheld at source on:			(n) Other foreign taxes paid or accrued	Taxes withheld at source on:			(r) Other foreign taxes paid or accrued	(s) Total foreign taxes paid or accrued (add cols. (c) through (r))
		(k) Dividends	(l) Rents and royalties	(m) Interest		(o) Dividends	(p) Rents and royalties	(q) Interest		
A										
B										
C										
8 Add lines A through C, column (s). Enter the total here and on line 9, page 2									8	

For Paperwork Reduction Act Notice, see Instructions. Cat. No. 11440U Form **1116** (2011)

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Cash-basis taxpayer may claim Credit (Deduction) for taxes paid or accrued.

Form 1116

Part III: Calculating the Credit

Form 1116 (2011)

Page 2

Part III Figuring the Credit

9	Enter the amount from line 8. These are your total foreign taxes paid or accrued for the category of income checked above Part I	9	
10	Carryback or carryover (attach detailed computation)	10	
11	Add lines 9 and 10	11	
12	Reduction in foreign taxes (see instructions)	12	(
13	Taxes reclassified under high tax kickout (see instructions)	13	
14	Combine lines 11, 12, and 13. This is the total amount of foreign taxes available for credit	14	
15	Enter the 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 instructions)	15	
16	Adjustments to line 15 (see instructions)	16	
17	Combine the amounts on lines 15 and 16. 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 18 through 22. However, if you are filing more than one Form 1116, you must complete line 20.)	17	
18	Individuals: Enter the amount from Form 1040, line 41, or Form 1040NR, line 39. Estates and trusts: Enter your taxable income without the deduction for your exemption <i>Caution: If you figured your tax using the lower rates on qualified dividends or capital gains, see instructions.</i>	18	
19	Divide line 17 by line 18. If line 17 is more than line 18, enter "1"	19	
20	Individuals: Enter the amount from Form 1040, line 44. If you are a nonresident alien, enter the amount from Form 1040NR, line 42. Estates and trusts: Enter the amount from Form 1041, Schedule G, line 1a, or the total of Form 990-T, lines 36 and 37 <i>Caution: If you are completing line 20 for separate category e (lump-sum distributions), see instructions.</i>	20	
21	Multiply line 20 by line 19 (maximum amount of credit)	21	
22	Enter the smaller of line 14 or line 21. If this is the only Form 1116 you are filing, skip lines 23 through 27 and enter this amount on line 28. Otherwise, complete the appropriate line in Part IV (see instructions) ▶	22	
Part IV Summary of Credits From Separate Parts III (see instructions)			
23	Credit for taxes on passive category income	23	
24	Credit for taxes on general category income	24	
25	Credit for taxes on certain income re-sourced by treaty	25	
26	Credit for taxes on lump-sum distributions	26	
27	Add lines 23 through 26	27	
28	Enter the smaller of line 20 or line 27	28	
29	Reduction of credit for international boycott operations. See instructions for line 12	29	
30	Subtract line 29 from line 28. This is your foreign tax credit . Enter here and on Form 1040, line 47; Form 1040NR, line 45; Form 1041, Schedule G, line 2a; or Form 990-T, line 40a ▶	30	

Form 1116 (2011)

Form 1040, Schedule 3

SCHEDULE 3 (Form 1040)		Nonrefundable Credits		OMB No. 1545-0074	
Department of the Treasury Internal Revenue Service		▶ Attach to Form 1040. ▶ Go to www.irs.gov/Form1040 for instructions and the latest information.		20 Attachment Sequence No. 03	
Name(s) shown on Form 1040			Your social security number		
Nonrefundable Credits	48	Foreign tax credit. Attach Form 1116 if required	48		
	49	Credit for child and dependent care expenses. Attach Form 2441	49		
	50	Education credits from Form 8863, line 19	50		
	51	Retirement savings contributions credit. Attach Form 8880	51		
	52	Reserved	52		
	53	Residential energy credit. Attach Form 5695	53		
	54	Other credits from Form a <input type="checkbox"/> 3800 b <input type="checkbox"/> 8801 c <input type="checkbox"/>	54		
	55	Add the amounts in the far right column. Enter here and include on Form 1040, line 12	55		

For Paperwork Reduction Act Notice, see your tax return instructions. Cat. No. 71480G Schedule 3 (Form 1040) 2018



Foreign Tax
Credit [from
Form 1116,
Part IV]

REMINDER: If foreign self-employment income, calculate SE Tax & enter on Schedule 4

REMINDER: Tax on Form 1040, Line 11 is calculated at marginal rate applicable to taxable income, *including* exempt foreign earned income



Polling Question # 7

The Foreign Tax Credit computed on Form 1116 is transferred to which schedule of Form 1040?

- Schedule A.
- Schedule 3.

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Foreign Retirement Accounts

- Employee contributions not deductible
- Employer contributions added to US taxable income
- Accrued income is taxable to plan participant each year
- Distributions are subject to both US and foreign taxation
 - Double taxation at retirement potentially mitigated by Foreign Tax Credit but...
 - Participants subject to tax on income accrual *and* asset withdrawal
- Some relief offered via tax treaties that may (?) provide for tax treatment similar to qualified US plans.



Reporting Obligations

- Foreign pension plans typically treated as “trusts” by IRS
- May be required to file:
 - *Form 3520* Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts
 - *FinCEN Form 114* Foreign Bank Account Report
 - *Form 8938* Statement of Specified Foreign Financial Assets
 - *Form 8621* Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund



Passive Foreign Investment Companies

Name of shareholder Identifying number (see instructions)

Number, street, and room or suite no. If a P.O. box, see instructions. Shareholder tax year: calendar year 20 or other tax year beginning , 20 and ending , 20

City or town, state, and ZIP code

- PFIC holds passive assets or receives passive income from interest, dividends, capital gains, etc.

Check type of entity: Corporation Partnership S Corporation Nongrantor Trust Estate

Check if any Excepted Specified Foreign Financial Assets are reported on this form. See instructions

Qualifying Insurance Corporation Election—I, a shareholder of stock of a foreign corporation, elect to treat such stock as the stock of a Qualifying Insurance Corporation under the alternative facts and circumstances test within the meaning of section 1297(f)(2). See instructions

- Include foreign mutual funds, money market accounts, pension funds & pooled investment vehicles

Address (Enter foreign address on separate line) Reference ID number (see instructions)

- PFIC regime designed to level playing field between US & foreign mutual funds

Tax year of foreign corporation, PFIC, or QEF: calendar year 20 or other tax year beginning , 20

- US funds required to pass through income annually
- PFIC shareholders must report undistributed earning annually

Part I Summary of Annual Information (see instructions)

Provide the following information with respect to all shares of the PFIC held by the shareholder:

Foreign Social Security Benefits

- Generally taxed by US if foreign pensions or annuity
- Often subject to foreign tax as well, UNLESS
 - Totalization Agreement: Taxed only by country of residence
 - Only 30 agreements currently

Example

German SS benefits received by US residents taxed like American SS benefits

- Subject to 50% or 85% inclusion
- No tax in Germany



Deductions

- Charitable contributions:
 - Payments to *foreign* charities are not deductible [except certain Canadian, Israeli & Mexican organizations as per treaties]
 - Payments to US charities which forward funds to foreign entities are deductible
- Moving expenses:
 - No longer deductible as per TCJA
- Travel expenses:
 - Must be directly related
 - Must not be “living” expenses for foreign assignment *expected* to last > 1 year
- Depreciation:
 - Real property over 40 years SL [TCJA: changed to 30 years for residential ppty]
 - Personal property over 12 years SL

Sale of Foreign Real Estate

Bifurcated reporting

1. Report gain (loss) on sale of property as capital
2. Report gain (loss) attributable to currency fluctuation at time of loan repayment as ordinary income
 - If dollar strengthens, use fewer dollars than anticipated to repay loan → GAIN
 - If dollar weakens, use more dollars than originally anticipated → LOSS

NOTE 1: Loss cannot be used to offset gain from property sale

NOTE 2: Loss is not deductible if loan secured by residence or personal property



Example: Foreign Real Estate

- 2/4/11: Bought French villa for €1 million cash + €1.75 million interest-only loan
- 9/19/19: Sold for €5 million & repaid loan

	Date	Euros (€)	Exch Rate (\$/€)	USD (\$)
Sales Proceeds	9/19/2019	5,000,000	1.1056	5,528,045
Purchase Price	2/4/2011	2,750,000	1.3581	(3,734,719)
Gain on Sale		2,250,000		1,793,326
Loan at Origination	2/4/2011	1,750,000	1.3581	2,376,639
Loan at Payoff	9/19/2019	1,750,000	1.1056	(1,934,800)
Gain from Exchange Rates				441,839

- Report:
 - \$1,793,326 LTCG
 - \$441,839 Ordinary income



Polling Question # 8

Participants in foreign retirement accounts may be required to file:

- Form 1040 to report employer contributions.
- Form 8938 to report a specified asset.
- FinCEN 114 to report a foreign account.
- Form 8621 to report a PFIC
- Form 3520 to report a foreign trust.
- All of the above.

Form **8854**

Initial and Annual Expatriation Statement

OMB No. 1545-0074

Expatriation Tax

For calendar year 2019 or first taxable year beginning in 2019, and for the year ending in 20

▶ Go to www.irs.gov for the latest information.

▶ Please print or type.

2019Attachment
Sequence No. 112

Name

Identifying number (see instructions)

- Exit tax on taxpayer who renounces (or inadvertently forfeits) US citizenship if principal purpose is tax avoidance

Part I General information. For all filers.

1 Mailing address and telephone number where you can be reached after expatriation

2 Address of principal foreign residence (if different from line 1)

- IRS presumes tax avoidance for high-income, high net worth taxpayer:

- Average annual income for previous 5 yrs > \$178K (in 2022), OR

- Net worth > \$2 million, OR

 Initial expatriation statement for persons who expatriated in 2019. Complete Part II.

 Annual expatriation statement for persons who expatriated in 2019. Complete Part III.

5 Date of expatriation under section 877A(g)(3) for expatriating citizens and long-term residents. See instructions.

- Global assets are deemed sold on date of expatriation

 Long-term resident

 Long-term resident with dual residence in a treaty country. Date commencing to be treated, for tax purposes, as a resident of the treaty country

- Taxed on resulting gains > \$767K (in 2022)

- Must file *Form 8854* and *Form 1040-NR* for next 10 years



(U.S. Customs Use Only)

Control No.

31 U.S.C. 5316; 31 CFR 103.23 and 103.27

▶ Please type or print.

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICEREPORT OF INTERNATIONAL
TRANSPORTATION OF CURRENCY
OR MONETARY INSTRUMENTS

▶ This form is to be filed with the United States Customs Service

▶ For Paperwork Reduction Act Notice and Privacy Act Notice, see back of form.

Cash Reporting

Part I FOR A PERSON DEPARTING FROM OR ENTERING THE UNITED STATES BY AIR, SEA, RAIL, OR MAILING, OR RECEIVING CURRENCY OR MONETARY INSTRUMENTS. (IF ACTING FOR ANYONE ELSE, ALSO COMPLETE PART II BELOW)

1. NAME (Last or family, first, and middle)	2. IDENTIFICATION NO. (See instructions)	3. DATE OF BIRTH (Mo./Day/Yr.)
4. PERMANENT ADDRESS IN UNITED STATES OR ABROAD		5. YOUR COUNTRY OR COUNTRIES OF CITIZENSHIP
6. ADDRESS WHILE IN THE UNITED STATES		7. PASSPORT NO. & COUNTRY
8. U.S. VISA DATE	9. PLACE UNITED STATES VISA WAS ISSUED	10. IMMIGRATION ALIEN NO. (If any)

Customs 4790

- Individual must report receipt/distribution of non-US currency > \$10K

FinCEN 104

- Financial institutions must report all currency transactions > \$10K

FinCEN 105

- Individual must file if he brings in, sends out or receives > \$10K



Sanctioned Countries

- US persons may not transact business with or hold accounts in countries listed by Office of Foreign Assets Control
 - e.g., Cuba, Iran, North Korea, Russia, Syria, & Venezuela
 - Accountants prohibited from providing services to Russia (6/7/22)
- Beware of taxpayers who fail to report taxable income as well as foreign accounts/assets







Foreign Bank Account Reporting

IMPORTANT : After you have completed this FBAR, you must Sign the Form and Save in order to activate the Ready to File button, which will direct you to a page where you can attach and submit your report. Click Validate to identify missing or incorrectly formatted data at any time during preparation of this report. Click Sign the Form to sign the report for e-file purposes.

- Must file *FinCEN 114* Foreign Bank Account Report (FBAR) if at any time:
 - had financial interest in or signature authority over
 - foreign financial account(s)
 - With aggregate value > \$10,000

- All financial accounts held outside US, incl. banks, brokerage accounts, insurance cash values, annuities & mutual funds

Valuation

- Each account at its highest value at any time during year
- Converted to US dollars based on exchange rate at year-end

Mandatory e-file

- Due 4/15; *automatic* extension to 10/15

Taxpayers must also report foreign dividend & interest income on Schedule B & check box in Part III

Foreign Assets

If you have attached continuation statements, check here Number of continuation statements _____

- Must file **Form 8938** with tax return – in addition to **FinCEN 114** – if foreign financial assets exceed certain thresholds

1 Name(s) shown on return _____ 2 Taxpayer Identification Number (TIN) _____

3 Type of filer

a Specified individualb Partnershipc Corporationd Trust

4 If you are a partner in a partnership or a shareholder in a corporation, enter the name and TIN of the specified individual who closely holds the partnership or corporation. If you checked box 3d, enter the name and TIN of the specified person who is a current beneficiary of the trust. (Do not include individuals who are not current beneficiaries of the trust.)

Domestic Taxpayers (US taxpayers living in US)Single: Aggregate value of \$50K on Dec. 31st or \$75K any time during yrMarried: Aggregate value of \$100K on Dec. 31st or \$150K at any time during yr**Part I** Foreign Deposit and Custodial Accounts Summary

1 Number of Deposit Accounts (reported in Part V) _____ ▶

2 “Foreign” Taxpayers (US taxpayers living abroad)Single: Aggregate value of \$200K on Dec. 31st or \$300K any time during yrMarried: Aggregate value of \$400K on Dec. 31st or \$600K at any time during yr5 Were any foreign deposit or custodial accounts closing the tax year? Yes No

- Assets incl. foreign bank accounts, foreign stocks or securities, interest in a foreign entity & gold certificates
- Statute on tax return remains open until *Form 8938* with all reportable assets has been filed

FBAR vs. Form 8938

	FBAR	Form 8938
Enactment	Bank Secrecy Act (1970)	Foreign Account Tax Compliance Act (2010)
Regulatory Authority	Dept. of Treasury	IRS
Statute of Limitations	None	3 yrs if filed 6 yrs if omitted income > \$5K
Privacy & Confidentiality	Available to all law enforcement agencies	Protected by IRC § 6103

Department of the Treasury
Internal Revenue Service

Foreign Gifts & Trusts

Note: All information must be in English. Check the instructions for filing separate returns for each foreign trust.

For calendar year 2019, or tax year beginning _____, 2019, ending _____, 20

A Check appropriate boxes: Initial return Initial return (extension filed) Final return Amended return

B Check box that applies to person filing return: Individual Partnership Corporation Trust Executor

C Check if the filer is a U.S. person who is a U.S. owner of a foreign trust (other than a trust for which the filer is the executor)

Check all applicable boxes.

(a) You are a U.S. person who, during the current tax year, transferred property (including cash) to a foreign trust, or (b) You are a U.S. person who (1) during the current tax year, transferred property (including cash) to a related foreign trust (or a person related to the trust) in exchange for an interest in the trust, (2) during the current tax year, received a distribution from the trust (including cash), or (c) You are the executor of the estate of a U.S. decedent and (1) the decedent made a transfer to a foreign trust by reason of death, (2) the decedent was treated as the owner of any portion of a foreign trust immediately prior to death, or (3) the decedent's estate included any portion of the assets of a foreign trust. Complete all applicable identifying information requested below and Part I of the form and see the instructions for Part I.

You are a U.S. owner of all or any portion of a foreign trust at any time during the tax year. Complete all applicable identifying information requested below and Part II of the form and see the instructions for Part II. **Due on 4/15 (plus extension) but filed separately from Form 1040**

(a) You are a U.S. person (including a U.S. owner) or an executor of the estate of a U.S. person who, during the current tax year, received, directly or indirectly, a distribution from a foreign trust, or (b) You are a U.S. person who is a U.S. owner or beneficiary of a foreign trust and in the current tax year, you or a U.S. person related to you received (1) a distribution from the trust for marketable securities, directly or indirectly, from such foreign trust, or (2) the uncompensated use of trust property, or (c) You are a U.S. person who is a U.S. owner or beneficiary of a foreign trust and in the current tax year such foreign trust holds an outstanding qualified outstanding debt of yours or a U.S. person related to you. Complete all applicable identifying information requested below and Part III of the form and see the instructions for Part III.

You are a U.S. person who is a U.S. owner of a foreign trust and in the current tax year you or a U.S. person related to you received a distribution from the trust for marketable securities, directly or indirectly, from such foreign trust, or (2) the uncompensated use of trust property, or (c) You are a U.S. person who is a U.S. owner or beneficiary of a foreign trust and in the current tax year such foreign trust holds an outstanding qualified outstanding debt of yours or a U.S. person related to you. Complete all applicable identifying information requested below and Part IV of the form and see the instructions for Part IV.

If trust is operated (near) exclusively to provide retirement, medical or education benefits

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