246.4 Adjustments for refund; rate of exchange; accrual-method taxpayer. The adjustments to the foreign tax credit by an accrual-method taxpayer who had properly claimed a credit for accrued foreign taxes on his return and subsequently paid such taxes in foreign currency is determined by comparing the amount accrued and claimed on his return with the actual amount of foreign currency paid converted to U.S. currency at the rate of exchange on the date of payment. S.M. 4081 superseded. §§1.901–1, 1.905–3. (Secs. 901, 905, ‘86 Code.) Rev. Rul. 73-506, 1973-2 C.B. 268.

246.5 Affiliated group; consolidated limitation. For purposes of computing the consolidated limitation on the foreign tax credit of an affiliated group of corporations, expenses of each member of the group which cannot be allocated to a specific item or class of domestic or foreign income should be allocated in the ratio of foreign gross income to total gross income of each member. Thus, gross income and expenses of members of the group that do not have income from foreign sources are not included in this computation. §§1.901–8, 1.904–1, 1.905–2. (Secs. 861, 882, 904, 1302, ‘86 Code.) Rev. Rul. 72-281, 1972-1 C.B. 285.

246.6 Allocation between U.S. and foreign source; withdrawals from roollover IRA. Taxable income from sources without the U.S. for purposes of section 904 includes only the amount attributable to employer contributions made to a pension plan on wages earned abroad. Income from sources within the U.S. consists of amounts attributable to the employer contributions made to the pension plan on wages earned in the U.S. and amounts allocable to earnings and accretions in the employer’s contributions prior to the time the pension rolled over to an IRA and, thereafter, to the earnings and accretions of the IRA. §§1.861–1, 1.901–1, 1.904–1. (Secs. 861, 894, 904, ‘86 Code.) Rev. Rul. 84-144, 1984-2 C.B. 129.

246.7 Allocation of income to domestic parent; credit for Swiss withholding tax. A wholly-owned Swiss subsidiary of a U.S. corporation declared a dividend in the amount of a reallocation of income made under section 482 by the Service. The 5 percent Swiss withholding tax withheld and paid to Switzerland by the subsidiary is a creditable foreign tax of the corporation within the meaning of section 901. (Secs. 482, 901, ‘86 Code.) Schering Corporations and Subsidiaries, 69 T.C. 579, Acq. in result, 1981-1 C.B. 2.

246.8 Allocation of income to domestic parent; tax paid deemed. A section 482 allocation of income from a foreign subsidiary to its domestic parent will affect the amount of credit for foreign income taxes deemed paid to the extent the allocation is made in excess of the income reported by the foreign subsidiary to its domestic parent under section 902(a)(1). Clarified by Rev. Rul. 76-508. §§1.482–1, 1.902–1. (Secs. 482, 902, ‘86 Code.) Rev. Rul. 74-158, 1974-1 C.B. 182.

246.9 Allocation of income to domestic parent; tax paid deemed. The effect of a reduction in the Australian tax of the U.S. corporation within the meaning of section 482, 901 or 902 reduces the amount of the foreign tax paid by the subsidiary to the parent. §§1.482–1, 1.902–1. (Secs. 482, 902, ‘86 Code.) Rev. Rul. 72-371, 1972-2 C.B. 438.

246.10 Allocation of income to domestic parent; taxes paid. A domestic corporation is not allowed a foreign tax credit for foreign taxes paid by its wholly owned foreign subsidiary resulting from failure to properly allocate income and expenses to the parent. §§1.482–1, 1.90–1. (Secs. 482, 901, ‘86 Code.) Rev. Rul. 92-75, 1992-2 C.B. 197.

246.11 Allocation of income to domestic parent; taxes paid. A domestic corporation is not allowed a foreign tax credit for foreign taxes paid by its wholly owned foreign subsidiary resulting from failure to properly allocate income and expenses to the parent. §§1.482–1, 1.90–1. (Secs. 482, 901, ‘86 Code.) Rev. Rul. 92-75, 1992-2 C.B. 197.

246.12 Allocation of income to parent; tax withheld. A domestic parent corporation is entitled to a credit for foreign tax withheld from its wholly owned foreign subsidiary on the royalty income allocated to the payor that would not have been subject to foreign tax if actually received by it. §§1.61–1, 1.842–1, 1.901–1. (Secs. 61, 482, 901, ‘86 Code.) Rev. Rul. 56-288, 1956-1 C.B. 321.


246.15 Australian tax on interest. The tax imposed by section 17 of the Australian Income Tax Assessment Act 1936–1973 imposed on an Australian company providing to a nonresident corporation for the foreign tax credit to the extent the allocation is made in excess of the income reported by the foreign subsidiary to its domestic parent under section 902(a)(1). (Sec. 91, ‘86 Code.) Rev. Rul. 68-148, 1968-1 C.B. 340.

246.16 Australian tax on trust income. A beneficiary of a discretionary trust created in Australia, the assets of which are comprised of Australian investments and American securities, is entitled to credit against his U.S. income tax for income taxes paid or accrued to Australia during the taxable year which are attributable to the trust income reported by him from sources within Australia. §93.131(a). (Sec. 131(a), ‘86 Code.) Rev. Rul. 56-380, 1956-1 C.B. 464.


246.18 Belgian citizen; taxes paid France. A Belgian citizen, residing in the U.S., may not claim credit against his U.S. income taxes for income taxes paid to France since Belgium does not satisfy the similar credit requirement of section 901(b)(3). §1.901(b)(3). (Sec. 901, ‘86 Code.) Rev. Rul. 90-25, 1990-2 C.B. 188.

246.19 Belgian convention; tax on dividends. The Belgian treaty on dividends paid by

Foreign tax credit

(See also; Carrybacks and carryovers; Possessions of the United States)

246.1 Accrual and cash method taxpayers; rate of exchange. A cash-method taxpayer who paid taxes to a foreign country in that country’s currency must use the rate of exchange in effect on the date of the tax payment to convert the amount into U.S. currency in claiming a foreign tax credit; an accrual-method taxpayer must use the rate of exchange in effect on the last day of his taxable year in claiming a credit for accrued foreign taxes. I.T. 1645 superseded. §1.901-1. (Sec. 901, ‘86 Code.) Rev. Rul. 73-491, 1973-2 C.B. 267.

246.2 Adjustments for refund; minimum distribution. A minimum distribution may be recomputed to reflect adjustments of foreign income taxes at any time in cases where the adjustment resulted in a refund of foreign taxes and at any time within the period of six years following the end of ten years from the date the U.S. shareholder files his income tax return in cases where the adjustment resulted in a further assessment of foreign taxes. §§1.905-3, 1.905-4, 301.6501(a)-1, 301.6511(d)-3. (Secs. 905, 963, 6501, 6511, ‘86 Code.) Rev. Rul. 71-454, 1971-2 C.B. 294.

246.3 Adjustments for refund; rate of exchange. When computing the dollar value of a foreign tax refund for which credit has been allowed, the rate of exchange at the date of the receipt of the refund is used. The adjusted credit is the credit previously allowed less the exchange value of the refund. An excess in the exchange value of the refund over the allowed credit is ordinary income for the year the refund is received. §§59.131(c)-1, 1.905-3. (Sec. 131(c), ‘80 Code.) Sec. 905, ‘86 Code.) Rev. Rul. 58-237, 1958-1 C.B. 534.
a Belgian corporation prior to 1963 is an income tax paid by the shareholder and is creditable under section 902 and, in accordance with section 78, is includable in gross income. Rev. Rul. 63-51, 1963-1 C.B. 407.

246.1 Belgian Law on dividend taxation of nonresidents. The income tax imposed by the Belgian tax law of November 20, 1962, and as amended, and the pre-computed withholding tax, a prepayment of the tax due on dividends paid by Belgian corporations to nonresident individuals and corporations who are residents of Brazil or have their headquarters abroad, falls under the U.S. concept of an income tax and is allowable as a foreign tax credit. §1.901-1. (Sec. 901, '86 Code.) Rev. Rul. 74-525, 1974-2 C.B. 411.

246.24 Brazil; interest withholding tax. The tax imposed on interest paid by Brazilian borrowers to foreign lenders is limited to the amount withheld in excess of the subsidy granted the borrowers under Brazilian Decree No. 58,400 of May 10, 1966, on the net total net profits and dividends actually remitted to individuals and corporations who are residents of Brazil or have their headquarters abroad, falls under the U.S. concept of an income tax and is allowable as a foreign tax credit. §1.901-1. (Sec. 901, '86 Code.) Rev. Rul. 68-310, 1968-1 C.B. 342.

246.29 Brazilian taxes. The tax imposed on legal entities by Article 248 of the Brazilian Income Tax Law, as amended, is an income tax creditable under section 901. Further, payments to the MOBRL Foundation of Brazil, a public benefit corporation, to the extent deductible from the Brazilian income tax under Article 1 of Decree Law No. 1,124, September 8, 1970, also qualify for foreign tax credit. §1.901-1. (Sec. 901, '86 Code.) Rev. Rul. 74-58, 1974-1 C.B. 180.

246.30 Brazilian taxes. The taxes imposed by Article 44 and 97 of Brazilian Decree No. 40,702, Article 1 of Law No. 2862 and Law No. 2354 qualify for the foreign tax credit. The additions to the basic income tax imposed by paragraph 2, Article 1 of Law No. 2973 do not qualify for such credit. §§1.901-1, 902-1. (Secs. 901, 902, '86 Code.) Rev. Rul. 60-68, 1960-1 C.B. 274.

246.31 Brazilian taxes. The 25 percent tax imposed by Articles 292(1) and 298 of Brazilian Decree No. 58,400 of May 10, 1966, qualifies for the foreign tax credit. However, the additional tax imposed by Article 3 of Law No. 1474 is not allowable. §1.901-1. (Sec. 901, '86 Code.) Rev. Rul. 70-49, 1970-1 C.B. 158.

246.32 Brazilian taxes; royalties. The tax on royalties withheld pursuant to Brazilian Decree No. 56,733 is allowable as a foreign tax credit; however, the additional tax imposed by Article 19 of Law No. 1474 is not allowable. §1.901-1. (Sec. 901, '86 Code.) Rev. Rul. 50-499, 1959-1 C.B. 186.

246.33 Buganda. The tax imposed under the First Schedule of the Graduated Tax Law of the Kingdom of Buganda upon the total estimated income of residents of the Kingdom of Buganda does not fall within the U.S. concept of an income tax and may not be allowable as a foreign tax credit. §1.901-1. (Sec. 901, '86 Code.) Rev. Rul. 64-280, 1964-2 C.B. 187.

246.34 Canada; insurance premiums tax; dominion and provinces. For financial years ended prior to January 1, 1957, the insurance premium taxes paid to the Dominion of Canada by mutual life insurance companies and to the Provinces of Quebec and Ontario by all insurance companies are allowable as foreign tax credits. Rev. Rul. 58-475 revoked. §1.901-1. (Sec. 901, '86 Code.) Rev. Rul. 72-231, 1972-1 C.B. 215.

246.35 Canada; insurance premiums tax; provinces. For taxable years that began with the financial year to which progress is made on January 1, 1957, through taxable years or portions thereof that ended December 31, 1968, the insurance premiums taxes paid to Canadian provinces by mutual life insurance corporations on their insurance business, and by stock life insurance corporations on their life insurance business, are allowable as foreign tax credits under section 903. However, for taxable years or portions thereof that began after 1968, insurance premiums taxes paid by insurance companies, except those insurance companies exempt from the Dominion corporate income tax, are not allowable as foreign tax credits. §§1.901-1, 1.903-1. (Secs. 901, 903, '86 Code.) Rev. Rul. 74-311, 1974-2 C.B. 211.

246.36 Canada; limitation; Province of Ontario. The Province of Ontario and the Dominion of Canada are not considered separate foreign countries for purposes of the limitation on credit on account of foreign income tax paid by a corporation controlled by a nonresident corporation under section 904. §§1.901–2, 904-1. (Secs. 901, 904, '86 Code.) Rev. Rul. 65-273, 1965-2 C.B. 240.

246.37 Canada; Special Refundable Tax. The Special Refundable Tax on certain corporations and trusts imposed by Canada is neither allowable as a foreign tax credit nor deductible in computing taxable income. Refunds of the tax are not includible in gross income, but interest received on such tax shall be included in gross income. §§1.61–1, 1.114–1, 1.901–1. (Secs. 61, 164, 901, '86 Code.) Rev. Rul. 67-187, 1967-1 C.B. 185.

246.38 Canadian Old Age Security Tax. The tax imposed by Canada upon the taxable income of individuals under the Old Age Security Act, is an income tax and is allowable as a foreign tax credit. §1.901-1. (Sec. 901, '86 Code.) Rev. Rul. 67-328, 1967-2 C.B. 257.

246.39 Canadian Pension Plan tax. The taxes imposed on employed and self-employed individuals under the Canada Pension Plan law is allowable as a foreign tax credit. §1.901-1. (Sec. 901, '86 Code.) Rev. Rul. 68-411, 1968-2 C.B. 306.

246.40 Canadian subsidiary; dividends tax. The dividends tax imposed by section 108(1)(b) of the Canadian Income Tax Act on a Canadian corporation controlled by a nonresident corporation is deemed to have been paid by the nonresident shareholder and is allowable as a foreign tax credit. §1.901-1. (Sec. 901, '86 Code.) Rev. Rul. 72-231, 1972-1 C.B. 215.

246.41 Canadian tax on domestic bus companies crossing border. Uniform principles have been agreed upon between the Service and the Department of National Revenue of Canada for determining the Canadian income of U.S. bus companies operating routes which enter Canada, and Canadian bus companies operating routes which enter the U.S. Rev. Rul. 59-293, 1959-1 C.B. 131c. (Secs. 119(e), 131(c), '39 Code, Secs. 863, 905, '86 Code.) Rev. Rul. 54-5, 1954-1 C.B. 130.

246.42 Canadian tax on liquidating dividends. The 15 percent tax withheld from nonresident shareholders by Canadian corporations, with respect to distributions in liquidation of assets deemed to be a dividend, is allowable as a foreign tax credit. §1.901-1. (Sec. 901, '86 Code.) Rev. Rul. 57-348, 1957-2 C.B. 434.

246.43 Consolidated returns. In computing its foreign tax credit, a domestic calendar-year corporation of which the shareholders are foreign sources, that was acquired on July 1 by the domestic calendar-year parent group and that maintained sufficient permanent records, must allocate its foreign income tax liability incurred for its short period return based on its foreign income for the period ended July 1. In computing the consolidated return foreign tax credit, the foreign income tax liability allocable to the income from July 1 to December 31 must be used. §§1.901-1, 1.1502-76. (Secs. 901, 1502, '86 Code.) Rev. Rul. 78-532, 1978-2 C.B. 295.

246.44 Consolidated returns; domestic affiliates group. An affiliated group of five domestic corporations filing a consolidated return is not entitled to a foreign tax credit under section 902
when each corporation in the group owns 2.5 per-
cent of the voting stock of a foreign corporation. §§1.901–1, 1.902–2, 1.1502–4, 1.902–1, 1.1502–1, 1.902–2; '86 Code.)

4.26 Consolidated returns; limitation. The fraction limiting a foreign tax credit on a consoli-
dated return is applicable to the total U.S. income attributable and that is computed as if the second tier subsidiaries were merged into the first tier subsidi-
ary, to be prorated and treated as if each corpo-
rate subsidiary had accumulated profits available in excess of the stock's value.

4.27 Contested tax; year taken. A foreign tax is accruable for the taxable year to which it relates even though the taxpayer contests the liability therefor and such tax is not paid until a later year. Such accrual, however, cannot be made until the contested liability is finally determined. §§39.23(c)-1, 39.131(d)-1, 1.164–1, 1.905–1.

4.28 Foreign controlled corporations; allocation between first and second tier corpo-

dations. For purposes of computing the deemed paid foreign tax credit, taxes paid by a foreign sub-
sidiary on its income and the income of its wholly owned foreign subsidiaries, for which the first and second tier subsidiaries are jointly and severally liable and that is computed as if the second tier subsidiaries were merged into the first tier subsidi-
ary, are to be prorated and treated as if each corpo-
rate subsidiary had accumulated profits available in excess of the stock's value.

4.29 Foreign controlled corporations; distributions; in excess of minimum required. Clar-
ification of the special rules of the minimum distri-
butions in excess of minimum required. §§1.902–3, 1.963–4. (Secs. 902, 963; '86 Code.)

4.30 Foreign controlled corporations; extraordinary distributions. The enumerated taxes imposed by various foreign countries or provinces have been determined to be creditable income taxes for purposes of the foreign tax credit. Sup-
plemented by Rev. Rul. 83–88 §§4.901–2, 4.901–3. (Secs. 901, 902; '86 Code.)

4.31 Foreign controlled corporations; distributions; in excess of minimum required. Clar-
iﬁcation of the special rules of the minimum distri-
butions in excess of minimum required. §§1.902–3, 1.963–4(b) and (c) in situations involving distributions in excess of the required minimum distributions and to the com-
putation of the foreign tax credit with respect to such excess distributions. Rev. Rul. 68–522 and 68–640 clarified and amplified. §§1.902–3, 1.963–4, 1.902–3, 1.902–6; '86 Code.)

4.32 Foreign controlled corporations; extraordinary distributions. The enumerated taxes imposed by various foreign countries or provinces have been determined to be creditable income taxes for purposes of the foreign tax credit. Rev. Rul. 82–119 supplemented. §§4.901–2, 4.901–3. (Secs. 901, 902; '86 Code.)

4.33 Foreign controlled corporations; dividends; appreciated property; domestic corporate shareholder. The subsidiary’s accumulated profits available in excess of the dividends paid. Held, the fair market value of the property paid and not its adjusted basis, should be used to compute the taxpayer’s foreign tax credit. (Secs. 115(a), 131(h), '86 Code; Secs. 301, 902, 906; '86 Code.)

4.34 Foreign controlled corporations; extraordinary distributions. The enumerated taxes imposed by various foreign countries or provinces have been determined to be creditable income taxes for purposes of the foreign tax credit. Rev. Rul. 83–88, 1983–1 C.B. 130.

4.35 Foreign controlled corporations; distributions; in excess of minimum required. Clar-
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putation of the foreign tax credit with respect to such excess distributions. Rev. Rul. 68–522 and 68–640 clarified and amplified. §§1.902–3, 1.963–4, 1.902–3, 1.902–6; '86 Code.)

4.36 Foreign controlled corporations; extraordinary distributions. The enumerated taxes imposed by various foreign countries or provinces have been determined to be creditable income taxes for purposes of the foreign tax credit. Rev. Rul. 82–119 supplemented. §§4.901–2, 4.901–3. (Secs. 901, 902; '86 Code.)

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4.38 Foreign controlled corporations; extraordinary distributions. The enumerated taxes imposed by various foreign countries or provinces have been determined to be creditable income taxes for purposes of the foreign tax credit. Rev. Rul. 82–119 supplemented. §§4.901–2, 4.901–3. (Secs. 901, 902; '86 Code.)

4.39 Foreign controlled corporations; extraordinary distributions. The enumerated taxes imposed by various foreign countries or provinces have been determined to be creditable income taxes for purposes of the foreign tax credit. Rev. Rul. 82–119 supplemented. §§4.901–2, 4.901–3. (Secs. 901, 902; '86 Code.)

4.40 Foreign controlled corporations; extraordinary distributions. The enumerated taxes imposed by various foreign countries or provinces have been determined to be creditable income taxes for purposes of the foreign tax credit. Rev. Rul. 82–119 supplemented. §§4.901–2, 4.901–3. (Secs. 901, 902; '86 Code.)

4.41 Foreign controlled corporations; extraordinary distributions. The enumerated taxes imposed by various foreign countries or provinces have been determined to be creditable income taxes for purposes of the foreign tax credit. Rev. Rul. 82–119 supplemented. §§4.901–2, 4.901–3. (Secs. 901, 902; '86 Code.)
Foreign tax credit

voting stock paid directly to it by the subsidiary is not entitled to the deemed-paid credit for foreign income taxes paid by the subsidiary with respect to such dividend. §1.902-3. (Sec. 902, ’86 Code.) Rev. Rul. 74-459, 1974-2 C.B. 207.

246.68 Domestic corporate shareholder; div- idends on nonvoting stock. A domestic corpora- tion that owns 10 percent of the voting stock and five percent of the nonvoting stock of a foreign corporation is entitled to a deemed paid foreign tax credit under section 902 for qualifying foreign taxes paid by the foreign corporation with respect to dividends received by the domestic corporation on the nonvoting stock, for a year in which no divi- dends were paid on the voting stock. §1.902-1. (Sec. 902, ’86 Code.) Rev. Rul. 77-79, 1974-1 C.B. 242.

246.69 Domestic corporate shareholder; merger of two foreign corporations. Gain to the extent of cash received was required to be re- cognized under section 356(a)(2) and treated as a divi- dend under section 356(a)(2) by a domestic corpo- rate shareholder, the owner of more than 10 percent of the stock of two foreign corporations, in a transaction involving an exchange of stock resulting from a merger of the two corporations that was held by a favorable ruling to qualify as a section 368(a)(1)(D) reorganization. The cash received is considered a dividend for purposes of the deemed-paid foreign tax credit to the extent of the domestic corporation’s ratable share of the dis- solved foreign corporation’s accumulated profit. §§1.356-1, 1.902-3. (Secs. 356, 902, ’86 Code.) Rev. Rul. 74-387, 1974-2 C.B. 207.

246.70 Domestic corporate shareholder; taxes accrued by foreign subsidiary. A domestic corporate shareholder may, in computing foreign income tax deemed to have been paid for the taxable year, include the subsidiary’s total accrued creditable tax liability for such year, even though paid under a foreign currency contract following the year and a portion deferred for 4 years. However, the domestic corporate shareholder may be required to give bond conditioned on the payment of tax found due if the credit taken as a result of such inclusion subsequently proves to be incorrect. §§1.902-3, 1.904-4. (Secs. 902, 905, ’86 Code.) Rev. Rul. 70-303, 1970-1 C.B. 161.

246.71 Domestic corporate shareholder; vot- ing stock ownership requirement. The ten per- cent voting stock ownership requirement of sec- tion 902 is determined on the basis of owning voting stock in a foreign corporation possessing at least ten percent of the total combined voting power of all classes of its voting stock. §1.902-1. (Sec. 902, ’86 Code.) Rev. Rul. 84-6, 1984-1 C.B. 178.

246.72 Domestic corporation; chain election subsidiary with earnings and profits deficit. For taxable years beginning before 1976, a domestic corporation may elect to transfer to a foreign subsidiary a minimum distribution under section 963 with respect to the earnings and profits of its wholly owned foreign subsidiary and two second-tier for- eign subsidiaries may, in computing the effective foreign tax rate of the chain, include the foreign income taxes paid by the second-tier subsidiary that had a deficit in earnings and profits under U.S. tax principles but used different accounting methods in accordance with domestic tax principles. (Sec. 902, ’86 Code.) Goodyear Tire and Rubber Co., 493 U.S. Ct. D. 2047, 1990-1 C.B. 142.

246.79 Domestic parent; chain or group elec- tion. A domestic corporation can make a chain or group election under section 963 for the purpose of computing under section 902 the earnings and profits of its foreign corporations included in its election whether or not either for- eign corporation has sufficient foreign tax credit for available foreign taxes. §§1.902-1. (Secs. 904, 963, ’86 Code.) Rev. Rul. 75-111, 1975-1 C.B. 251.

246.80 Domestic parent; dividend paid by wholly-owned foreign subsidiary. The dividend paid by a wholly owned South African (Namibian) subsidiary to its domestic parent out of accumu- lated profits of taxable years 1973 and 1974 is not a dividend received from a less developed country corporation for purposes of computing the par- ent’s foreign tax credit. §§1.902-3, 1.955-4. (Secs. 902, 955, ’86 Code.) Rev. Rul. 75-53, 1975-1 C.B. 234.

246.81 Domestic parent; dividends; taxable year paid. The determination of the taxable year out of which dividends are considered paid is illus-
246.88 Election; limitation period. The election of a taxpayer to claim credit, under section 131(a), for the amount of certain taxes paid to a foreign country or to any U.S. possession, must be made or changed prior to the expiration of the period prescribed under section 322(b)(1) or (3), as the case may be, and not by the special limitation period established by section 322(b)(6) of the '39 Code. §89.131(a)-1, 39.322-7, (Secs. 131(a), 322, '39 Code; Secs. 901, 6511, '86 Code.) Rev. Rul. 56-196, 1956-1 C.B. 655.

246.89 Exempt income earned abroad. The credit for foreign taxes is limited in application only as expressly provided in section 131(b) of the '39 Code. Income earned abroad but excluded from U.S. tax is taken into account in applying the percentage limitations to the foreign tax for which credit is available. G.C.M. 26062 revoked. §89.131(b)-1, (Sec. 131, '39 Code; Sec. 904, '86 Code.) Rev. Rul. 54-15, 1954-1 C.B. 129.

246.90 FICA and self-employment tax; totalization agreement. A foreign corporation is allowable as a foreign tax credit for the amount of income taxes paid or accrued to a foreign country during the taxable year with respect to the domestic corporation. Modified by Rev. Rul. 76-215, 1976-1 C.B. 194.

246.91 Foreign corporation. The income tax paid or accrued to a foreign country under the terms of a totalization agreement are neither allowable as a credit, however, upon subsequent distribution a credit is allowable to the extent that the tax withheld is not reduced by the proportionate amount of tax previously paid by the corporation. §1.901-1. (Sec. 901, '86 Code.) Rev. Rul. 69-486, 1969-2 C.B. 150.

246.92 Foreign corporation; earnings and profits; carryback of deficits. A tax credit on or after December 1, 1979, is allowable as a credit against tax under section 901; the Greek tax on accumulated earnings is allowable as a credit, however, upon subsequent distribution a credit is allowable to the extent that the tax withheld is not reduced by the proportionate amount of tax previously paid by the corporation. §1.901-1. (Sec. 901, '86 Code.) Rev. Rul. 70-229, 1970-1 C.B. 277.

246.93 Foreign corporation; stockholder. Accumulated profits of a foreign corporation are not reduced to the amount of earnings and profits attributable to the interests of U.S. shareholders upon which the foreign income tax is actually imposed. §1.902-1. (Sec. 902, '86 Code.) Rev. Rul. 87-14, 1987-1 C.B. 181.

246.94 Foreign earned income exclusion. An individual entitled to a foreign tax credit under a U.S. income tax treaty may not claim the credit if it is allowable to income the individual chooses to exempt from gross income under section 911. §1.911-2, (Sec. 911, '86 Code.) Rev. Rul. 79-199, 1979-1 C.B. 246.

246.95 Foreign taxes assumed by foreign purchaser. Income taxes payable to a foreign country which have accrued against a domestic corporation and which are assumed by a foreign corporation as an incident to the sale of assets of the domestic corporation constitute part of the sales price of the assets and are allowable as a credit to the domestic corporation. Modified by Rev. Rul. 78-258. (Sec. 961, '86 Code.) Rev. Rul. 57-106, 1957-1 C.B. 242.

246.96 France; tax based on rental value of apartment. Income taxes payable to a foreign country which have accrued against a foreign tax credit the amount of tax paid to France on estimated income that was computed as a function of the rental value of the taxpayer’s apartment—

(1) the amount of tax paid to France on estimated income that was computed as a function of the rental value of the taxpayer’s apartment—


246.98 German surcharge on income and corporation taxes payable to Germany. A German tax is allowable as a foreign tax credit levied under the German Income Tax Code. Rev. Rul. 74-90, 1974-1 C.B. 181.


246.100 German tax on gain from sale of stock. The tax imposed by the West German Corporation Tax Law of 1951 on the profit derived by a domestic corporation on the sale of stock of a German corporation to two other German corporations is allowable as a foreign tax credit. (Sec. 901, '86 Code.) Rev. Rul. 69-993, 1969-2 C.B. 277.

246.101 German trade taxes. A foreign tax credit is allowable for German trade taxes when such payments represent income tax paid on business earnings. However, a credit is not allowable when such payments represent a tax on business capital or wages paid. Amended to provide that credit is allowable for the entire amount of German trade taxes levied under the Tax Law of November 18, 1958, insofar as such taxes constitute a tax on business earnings. §1.901-1. (Sec. 901, '86 Code.) Rev. Rul. 59-208, 1959-1 C.B. 192; Rev. Rul. 63-268, 1963-2 C.B. 290.

246.102 German turnover tax. The turnover tax imposed by the German Turnover Tax Law of September 1, 1951, is not allowable as a foreign tax credit. (Secs. 901, 903-3. '86 Code.) Rev. Rul. 56-633, 1956-2 C.B. 501.

246.103 Germany; social security taxes. No deduction or credit is allowable for social security taxes paid or accrued to the Federal Republic of Germany on or after December 1, 1979. §§1.901-1, 1.903-1, (Secs. 164, 901, '86 Code.) Rev. Rul. 80-80, 1980-1 C.B. 174.

246.104 Greek special tax on public works contractors. The special income tax on public works contractors imposed by Greece under Article 7(1) of the Decree Law No. 4444/1964, as amended by the Law No. 2192/1972, and the 15 percent additional Agricultural Social Insurance tax imposed by Article 3(2) of such law, is allowable as a foreign tax credit. Rev. Rul. 73-588, 1973-2 C.B. 268.

246.105 Greek tax on corporate income. The Greek tax on current earnings of Greek corporations withheld from distributions to shareholders is allowable as a credit against tax under section 901; the Greek tax on accumulated earnings required to be paid by corporations is not allowable as a credit, however, upon subsequent distribution a credit is allowable to the extent that the tax withheld is not reduced by the proportionate
Foreign tax credit
duction sharing contract entered into before that date by the Indonesian Government and a U.S. taxpayer increased Indonesia’s share of the pro-
duction but did not fundamentally change the terms making it a production sharing contract. The share received by Indonesia under the adjusted contract will continue to be treated as foreign income taxes for taxable years ending before Janu-

246.116 Interest; loans to foreign subsidi-
aries; domestic escrow trustee. Interest income received by a domestic corporation from loans made and repaid through a domestic bank, as its escrow trustee, to its foreign subsidiaries is includible in the gross income of the U.S. parent corporation is entitled to the foreign tax credit with respect to foreign taxes paid on such interest income. §§1.862–2, 1.901–1, 903. (Secs. 862, 901, '86 Code.) Rev. Rul. 72-514, 1972-2 C.B. 449.

246.117 Interest; determination of tax. Where liability for additional tax arises out of a redetermination of tax as the result of receipt of a refund of foreign tax for which credit was taken on a U.S. income tax return for a prior year, no inter-


246.119 Panamanian income taxes. Pana-
mankan income taxes paid to Government of Panama Account Number 2 at the Federal Reserve Bank in New York are creditable foreign taxes if all other requirements are met. Notice 88-47, 1988-1 C.B. 530.


246.121 International boycotts; guidelines; additional. Proposed additional guidelines issued by the Treasury Department relate to those provi-

246.122 International boycotts; guidelines; enforcement policy. Enforcement policy is set forth with regard to the guidelines relating to the provisions of the Tax Reform Act of 1976 that deny certain tax benefits for participation in or cooperation with international boycotts. 1977-2 C.B. 503.

246.123 International boycotts; procedures; determinations. Procedures are set forth pertaining to the issuance of determinations under section 999(d), relating to whether a particular operation of a person, or of a controlled group that includes that person, constitutes participation in or cooperation with an international boycott. §§1.952-1, 1.995-2. (Secs. 601.105, 601.201, S.P.R., Secs. 908, 952, 995, 999. '86 Code.) Rev. Proc. 77-9, 1977-1 C.B. 542.

246.124 Iranian tax on contractors. The Iranian tax on contractors is a tax in lieu of an income tax and is allowable as a foreign tax credit. §§1.901-1, 1.903-1. (Secs. 901, 903, '86 Code.) Rev. Proc. 79-29, 1979-2 C.B. 273.

246.125 Iranian corporation tax; rate limit-
ated by contract. The tax imposed on chargeable income by the Government of Jamaica under the Income Tax Act, 1954, which is not a cer-
tain contractual agreement between a U.S. corpo-
ration and the Jamaican Government, is allowable as a foreign tax credit. Such an income tax is exempt in the year the income is earned. §§1.416-1, 1.901-1. (Secs. 461, 901, '86 Code.) Rev. Rul. 60-146, 1960-1 C.B. 276.

246.126 Jamaican corporation tax; rate limit-
ed by contract. The tax imposed on chargeable income by the Government of Jamaica under the Income Tax Act, 1954, which is not a cer-
tain contractual agreement between a U.S. corpo-
ration and the Jamaican Government, is allowable as a foreign tax credit. Such an income tax is exempt in the year the income is earned. §§1.416-1, 1.901-1. (Secs. 461, 901, '86 Code.) Rev. Rul. 72-26, 1972-1 C.B. 214.

246.131 Japanese corporation tax; rate limit-
ed by contract. The tax imposed on chargeable income by the Government of Japan under the Income Tax Law, 1954, which is not a cer-
tain contractual agreement between a U.S. corpo-
ration and the Japanese Government, is allowable as a foreign tax credit. Such an income tax is exempt in the year the income is earned. §§1.416-1, 1.901-1. (Secs. 461, 901, '86 Code.) Rev. Rul. 72-26, 1972-1 C.B. 214.

246.132 Japanese corporation tax; rate limit-
ed by contract. The tax imposed on chargeable income by the Government of Japan under the Income Tax Law, 1954, which is not a cer-
tain contractual agreement between a U.S. corpo-
ration and the Japanese Government, is allowable as a foreign tax credit. Such an income tax is exempt in the year the income is earned. §§1.416-1, 1.901-1. (Secs. 461, 901, '86 Code.) Rev. Rul. 72-26, 1972-1 C.B. 214.

246.133 Japanese corporation tax; rate limit-
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ration and the Japanese Government, is allowable as a foreign tax credit. Such an income tax is exempt in the year the income is earned. §§1.416-1, 1.901-1. (Secs. 461, 901, '86 Code.) Rev. Rul. 72-26, 1972-1 C.B. 214.

246.135 Japanese corporation tax; rate limit-
ed by contract. The tax imposed on chargeable income by the Government of Japan under the Income Tax Law, 1954, which is not a cer-
tain contractual agreement between a U.S. corpo-
ration and the Japanese Government, is allowable as a foreign tax credit. Such an income tax is exempt in the year the income is earned. §§1.416-1, 1.901-1. (Secs. 461, 901, '86 Code.) Rev. Rul. 72-26, 1972-1 C.B. 214.
able as a foreign tax credit; however, that portion imposed on a per-capita basis is not allowable. §1.901-1. (Sec. 901, 86 Code.) Rev. Rul. 70–21, 1970–1 C.B. 158.

246.139 Japanese tax on royalties. The withholding tax on royalties imposed under the provisions of article 1A, paragraph 2, item 6, of the Japanese income tax law is allowable as a foreign tax credit. §839.131(a)–1. (Sec. 131, 39 Code; Sec. 901, 86 Code.) Rev. Rul. 273, 1953–2 C.B. 58.

246.140 Liberian “Austerity Tax”. The “Austerity Tax” imposed by the Republic of Liberia effective as of January 1, 1968, on the salary or earnings of every self-employed, salaried, or wage-earning citizen and foreign resident of Liberia over 16 years of age or older is allowable as a foreign tax credit. §1.901–1. (Sec. 901, 86 Code.) Rev. Rul. 69–237, 1969–1 C.B. 194.

246.141 Libyan tax on oil companies. Surtax paid or accrued under Article 141(1)(a) of the Libyan Petroleum Law No. 25 of 1955 for taxable years beginning prior to July 1, 1978, that are properly deemed to be paid or accrued in taxable years beginning after July 1, 1978, pursuant to sections 907 and 904, will be treated as income taxes within the meaning of section 901(b) in the years to which they are credited. Rev. Rul. 78–63 amplified. (Secs. 901, 904, 907; 86 Code.) Rev. Rul. 79–93, 1979–1 C.B. 243.


246.149 Limitation; income source; certain countries. Income from sources located in countries listed where income exclusions are limited. Countries are also listed for which sections 901(j) and 952(a)(5) of the Code contain the foreign tax credit rules and the definitions of Subpart F income. §§1.901–1, 1.904–1. (Secs. 901, 902, 911, 952, 960; 86 Code.) Rev. Rul. 87–35, 1987–1 C.B. 182.

246.150 Limitation; income source; certain countries. This ruling lists countries the income from which is subject to certain special tax rules under sections 901(j) and 952(a)(5). The ruling also lists countries to which an withholding tax on personal services performed in Japan is allowable. Rev. Rul. 90–53 superseded. Rev. Rul. 87–35 amplified. (Secs. 901, 902, 903, 921, 952, 960; 86 Code.)

246.151 Limitation; income source; certain countries. Rev. Rul. 92–63 corrected. This ruling corrects the geographical reference in Rev. Rul. 92–63, by substituting South Africa for South Korea in the list of countries subject to section 901(j) for the periods listed. (Sec. 901, 86 Code.) Rev. Rul. 92–63A, 1992–2 C.B. 196.

246.152 Limitation; income source; Foreign Service retirement annuity. The portion of a Foreign Service retirement annuity that represents payments from a current Congressional appropriation to the Foreign Service Retirement and Disability Fund is attributable to an employer contribution and, with respect to wages earned abroad by the taxpayer, is income derived from sources without the U.S. for purposes of computing the limitation on the foreign tax credit. §§1.901–1, 1.904–1. (Secs. 901, 904, 86 Code.) Rev. Rul. 78–227, 1978–1 C.B. 242.

246.153 Limitation; income source; Japanese airline employee. Compensation received by a U.S. citizen residing in Japan for personal services performed after 1989 by a U.S. as a flight crew member on an international flight is allowable as a foreign tax credit treated as sourced in Japan in computing the foreign tax credit limitation provided in section 904(a), which is incorporated in the formula provided in section 911(a) applying to individuals who do not elect to be taxed on the foreign tax imposed on coupons bearing interest payable in interest from the sale of the corporation’s oil. The corporation does not sell refined products. §§1.861–8, 1.904–1. (Secs. 861, 904, 907; 86 Code.) Rev. Rul. 79–206, 1979–2 C.B. 279.

246.154 Limitation; income source; pension payments to citizen. A U.S. citizen received pension payments from an employer’s qualified noncontributory pension plan for services performed in prior years both within and without the United States. For purposes of computing the limitation on the foreign tax credit, only that portion of the payments received that is attributable to the employer’s contribution to the pension plan with respect to wages earned abroad is income from sources without the U.S. §§1.861–1, 1.901–1, 1.904–1. (Secs. 861, 901, 904; 86 Code.) Rev. Rul. 79–389, 1979–2 C.B. 281.

246.155 Limitation period; adjustments. The exception provided by section 933(c) extending the limitation period for redetermining tax when credited foreign taxes are refunded in a later year does not extend the period for adjustments for computational errors on the affected return. Claimed as a deduction or as a foreign tax credit under section 901(c) for the periods listed. (Secs. 901, 905, 6501; 86 Code.) Rev. Rul. 72–525, 1972–2 C.B. 443.

246.156 Limitation period; adjustments. The proper method of computing the limitation on the foreign tax credit may be adjusted by the Service to reduce or offset the amount of a claim for refund made by the corporation’s domestic parent under the 10-year statute of limitations in section 6511(d)(3)(A), even though the parent corporation’s normal 3-year statute of limitations under section 6501(a) has expired. Rev. Rul. 72–525 clarified. Rev. Rul. 79–206, 1979–2 C.B. 279.

246.157 Limitation period; adjustments for computational error. An error made on a timely filed 1966 Federal income tax return in the computation of the per country limitation on the foreign tax credit may be corrected within the 10 year period of limitations. §301.6511(d)(4). (Sec. 6511, 86 Code.) Rev. Rul. 77–54, 1977–1 C.B. 400.

246.158 Limitation period; claim for credit or refund. Contested foreign income tax that is paid after filing the return for the year in which the tax is accrued may be carried over from the year of accrual only if a claim for refund of tax paid in that year is filed within 1 year of the date prescribed for filing the return for the year in which the tax was paid. Rev. Rul. 87–247, 1987–1 C.B. 479.

246.159 Limitation period; claim for refund. When an accrual-basis domestic corporation contests a foreign tax assessment, the foreign tax credit to be denied from the contested tax is allowable in the taxable year to which the foreign tax relates. Although the credit may not be accrued (except to the extent the contested tax is paid) until the amount of the foreign tax is finally determined. Further, a claim for refund of the overpayment of Federal income tax with respect to the foreign tax credit allowed must be made within 1 year from the due date of the Federal income tax return for the year to which the foreign tax relates. Rev. Rul. 56–55 and 77–487 amplified. Rev. Rul. 70–290.
Foreign tax credit
clarified §§1.901-1, 1.904-2, 1.905-1, 3901.651(d)-3. (Secs. 901, 905, 906, '86 Code.)

246.160 Limitation period; election; claims for credit. No limitation period is established under section 905(c) for a foreign tax credit based on income tax liability. Such bond may be required from a taxpayer at any time and the foreign tax credit may be disallowed without regard to any period of limitations if a taxpayer refuses to furnish the bond. §§1.904-5, 301.651(d)-3. (Secs. 901, 906, '86 Code.)

246.161 Limitation ratio. The amount of compensation received from a foreign corporation for services performed by the taxpayer which is not included in the numerator of the fraction in computing the limitation on the foreign tax credit must be in respect of taxes paid to a foreign country where the non-U.S. subject to U.S. income tax for the same taxable year. §§1.901-1, 1.903-1. (Sec. 901, '86 Code.)

246.163 Long-term foreign contracts. Income taxes paid to a foreign country by a domestic corporation, which reports its income from a long-term contract on the completed contract basis for U.S. income tax purposes, may not be included in the numerator of the fraction in computing the limitation on the foreign tax credit for the respective period of the contract. §§1.903-1, 1.906-1. (Secs. 901, 906, '86 Code.)

246.164 Loss reserve reporting requirement; safe harbors. Two safe harbors are provided for complying with the loan loss reserve reporting requirement in order to qualify for the special foreign tax credit treatment continued by the Revenue Reconciliation Act of 1980. §1.903-1. (Sec. 901, '86 Code.)

246.165 Malaysian Income Tax. The tax imposed under section 3 of the Malaysian Income Tax Act of 1967, effective January 1, 1968, is allowable as a foreign tax credit. §1.901-1. (Sec. 901, '86 Code.)

246.167 Mexican official exchange rate; not a tax subsidy. The use of the official exchange rate to convert Mexican interest and withholding tax payments from pesos to dollars, or vice versa, is not allowable as a tax subsidy within the meaning of reg. §1.901-2(e)(3). The appropriate rate of exchange to convert the Mexican peso tax to dollars is the official exchange rate for purposes of the foreign tax credit, unless the taxpayer has the option to use, or actually uses the free exchange rate to buy pesos to satisfy the taxes imposed in which case the free exchange rate would be the appropriate rate. §§1.901-1, 1.902-1. (Secs. 901, 903, '86 Code.)

246.168 Mexican two-percent assets tax. The interaction of the Mexican assets tax and the Mexican income tax will not affect the creditability of the Mexican income tax under section 901. §§1.901-1, 1.903-1. (Secs. 901, 903, '86 Code.)

246.169 Mexico; dividends tax. The tax imposed by Mexico on gross royalties paid to foreign and non-Mexican entities not established in Mexico is allowable as a foreign tax credit. §1.901-1. (Sec. 901, '86 Code.)

246.170 Mexico; gross royalties tax. The tax imposed by Mexico on gross royalties paid to foreign and non-Mexican entities not established in Mexico is allowable as a foreign tax credit. §1.901-1. (Sec. 901, '86 Code.)

246.172 Netherlands Antilles; payment pursuant to legal liability. A payment to the Netherlands Antilles pursuant to the election described in section 901(d) is allowable as a foreign tax credit for purposes of section 901(b). Rev. Rul. 85-16 amplified. §§1.901-1, 1.902-1. (Secs. 901, 906, '86 Code.)

246.173 Netherlands convention; house tax. The house tax (personelebelasting) imposed on household furniture and domestic commodities by a municipality in the Netherlands is not covered by the U.S.-Netherlands Income Tax Convention and is not a creditable tax under section 901. §1.901-1. (Sec. 901, '86 Code.)

246.174 Netherlands WIR premiums. For purposes of the foreign tax credit under section 901, the WIR premiums allowable with respect to commitments to invest in qualified assets entered into after April 30, 1986, must be treated as reducing Netherlands income taxes paid or accrued for the taxable year or years in which the premiums are allowed. §§1.901-1, 902-1. (Secs. 901, 906, '86 Code.)

246.175 Nicaraguan income tax. The tax imposed by the Government of Nicaragua under Article 1 of Decree No. 55 dated December 16, 1952, as amended, and the tax imposed on holders of American Corporation Interest, is an allowable foreign tax credit. Article 121 of Decree No. 1067 dated March 10, 1986, is allowable as a foreign tax credit. §1.901-1. (Sec. 901, '86 Code.)

246.176 Obsolete rulings. Certain rulings involving foreign tax credit matters are declared obsolete with respect to future transactions. §§301.7805-1. (Secs. 7805, '86 Code.)

246.177 Obsolete rulings. A list of post-1952 revenue rulings dealing with the creditability of foreign taxes are declared obsolete for taxable years ending after June 15, 1979. §301.7805-1. (Sec. 7805, '86 Code.)

246.180 Paraguayan income tax. The Paraguayan income tax imposed by Decree-Law 9240 of December 20, 1949, and the tax imposed by Decree-Law 265 of March 21, 1961, in lieu of such income tax, is allowable as a foreign tax credit. §1.901-3. (Secs. 903, '86 Code.)

246.181 Partnership; shareholders in foreign corporation. Two domestic corporations forming a partnership to acquire a 40 percent interest in a foreign corporation that pays the partnership compensation for services and products and also dividends are entitled to a credit for foreign taxes publicized on the compensation and the dividends. §§1.901-3, 1.902-3, 1.904-1. (Secs. 901, 902, 904, '86 Code.)

246.182 Partnership; U.S. citizen resident of France. A procedure to be followed by partner corporations in making the election provided in Article 23(3)(c) of the U.S. France Income Tax Convention as amended by the Protocol of Nov. 24, 1978, is set forth. The application to partners reporting income on the basis of taxable years begun on or after Jan. 1, 1979, is clarified. §§1.702-1, 1.901-1, 1.964-1, 5b.911-1, 5b.913-1. (Secs. 601.701, S.P.R.; Secs. 702, 901, 904, 905, 911, 931, '86 Code.)

246.183 Payments for special consideration. Amounts paid by a domestic taxpayer to a foreign country under facts indicating the amounts were paid for special consideration received by the grantor are not allowable as a foreign tax credit even though they are deemed taxes under the laws of the foreign country. §1.901-1. (Sec. 901, '86 Code.)
246.184 Per-country limitation; allocation of deductions to foreign source income. The Commissioner may limit the per-country limitation for foreign tax credit, allocated various deductions to a corporation's foreign source income, including items (1) allocated as being definitely related to dividends received from English and German subsidiaries, (2) definitely related to dividends from English and German subsidiaries, and (3) allocated to income of Cuban and Puerto Rican stores. Held, the Commissioner failed to meet his burden of proof and the allocation of various deduction items to certain foreign source income in order to reduce the corporation's per-country limitation on taxes paid or deemed paid to England, Germany, Puerto Rico, and Cuba was not required. (Secs. 862, 904, '86 Code.)


246.185 Per-country limitation; income source limitation. In determining the per-country limitation on the foreign tax credit a taxpayer whose long-term capital gain from U.S. transactions exceed his long-term capital gain from sale of personal property in a foreign country does not reduce the capital gain shown as the numerator of the limiting fraction since under section 904(a)(1) by capital losses paid to England, Germany, Puerto Rico, and Cuba.


246.186 Per-country limitation; net operating loss. In determining the per-country limitation of the foreign tax credit in determining the taxable income from sources within a foreign country in any year a net operating loss is deductible earned Peruvian income tax. The tax imposed by the Quebec Mining Duties Act (14 S.M. 2243) superseded. §§1.901-1, 1.905-3. (Secs. 901, 905; '86 Code.)


246.187 Peruvian income and complementary taxes; advance payments. Payments that a U.S. corporation exporting Peruvian products was required to make to the Peruvian Government in 1969 as an advance on account of income and complementary taxes are deposits against future liability for tax and are not a permissible foreign tax credit only in the taxable years when actually paid as a deduction against an otherwise creditable Peruvian income tax. §1.901-1. (Sec. 901, '86 Code.)


246.188 Peruvian mining taxes. The tax imposed by the Peruvian Government on the net profits obtained from mining under Article 17 of Chapter IV of Peruvian Law 246.189 Philippines privilege tax. The privilege tax imposed by section 178 of the National Internal Revenue Code of the Republic of the Philippines is not allowable as a foreign tax credit. (Sec. 901, '86 Code.)


246.192 Puerto Rico tax on possessions. A corporation is not deprived of the right to obtain credit for foreign taxes because it contests the validity of the statutes under which the taxes were paid or protests the assessment and has made application for a refund. S.M. 2243 superseded. §§1.901-1, 1.905-3. (Secs. 901, 905; '86 Code.)


246.194 Puerto Rico; taxes paid and accrued the same year. A cash basis taxpayer who made the election to accrue foreign taxes and in the same year paid Puerto Rican income taxes for prior years is entitled to a foreign tax credit in that year for both taxes accrued and the taxes paid. (Sec. 131d, 39 Code. Sec. 905, '86 Code.)

Rev. Rul. 31-99, 1931-1 C.B. 616.

246.195 Puerto Rico and possession tax credit; revocation of election. The amendment of section 901(g) by the Revenue Act of 1978 eliminates the need for the revocation procedure contained in Rev. Proc. 78-32 relating to an election to revoke the Puerto Rico and possession tax credit under section 936. Rev. Proc. 78-32 revoked. §1.901-1. 7-396-1. (Sec. 601.105, S.P.R. Secs. 901, 936, '86 Code.)


246.196 Puerto Rico and possession tax credit election; “F” reorganization. A mere change in place of incorporation, qualifying under section 36a(a)(1)(F), does not terminate a corporation's election to be treated as a possessions corporation. §§1.901-1, 1.381(a)-1. (Secs. 368, 381, 936, '86 Code.)


246.197 Puerto Rico; withholding and estimated tax. A taxpayer may credit against his U.S. income tax the amount of Puerto Rican Commonwealth wealth income tax withheld from his wages or paid as estimated tax during the taxable year to the extent such amount represents a legal and actual tax liability. §1.901-1. (Sec. 901, '86 Code.)


246.198 Quebec mining duties. A duty on the annual profits from mines in the Province of Quebec imposed by the Quebec Mining Duties Act (14 Eliz. II, 1965 C. 35) is not allowable as a foreign tax credit. §1.901-1. (Sec. 901, '86 Code.)


246.199 Regulated investment company; taxable income. For purposes of the limitation under section 904(a) of the Code in the case of a regulated investment company that has not made an election to have its foreign tax credit taken by its shareholders, the term “taxable income” means the sum of the investment company’s taxable income as defined in section 852(b)(2) and the excess of capital gains not designated to the shareholders and distributed under section 852, 1964-1 C.B. 180.


246.200 Resident aliens; supporting evi- dence. Guidelines are prescribed for use in determining the admissibility of documents as evidence supporting the satisfaction of the requirements of section 901 have been satisfied. Rev. Rul. 57-153, 1957-2 C.B. 254.

246.201 Revocation of elections. A qualified individual’s claiming of a foreign tax credit with respect to foreign earned income eligible for exclusion under section 911 of the Code and which the taxpayer has elected to accrue is inconsistent with the previously made election or elections and generally will result in the revocation of one or both elections. §1.911-7. (Sec. 911, '86 Code.)


246.202 Rules relating to the adjustment to the pools of foreign taxes and earnings profits. Guidance is provided concerning the rules for adjusting to the pools of foreign taxes and earnings profits when the allowable foreign tax credit changes.


246.203 Settlement of disputed U.K. tax. A U.K. corporation, which files a claim for refund of United Kingdom taxes paid on interest income received from U.S. corporations by its permanent establishment in the U.K. and subsequently agrees to settle for a portion of the refund claimed that is comparable on a per-person basis to amounts received in good faith by a similarly situated taxpayer, has exhausted all effective and practicable administrative remedies, and the portion of the refund claimed but not returned constitutes creditable taxes for purposes of section 901(a). §1.901-1. (Sec. 901, '86 Code.)


246.204 Small business corporation. The shareholders of a small business corporation are not entitled to a credit for income tax paid to a foreign government by the corporation. However, the corporation is entitled to a tax deduction, provided it does not take the benefit of section 901. §§1.164-1, 1.1373-1. (Secs. 164, 1373, '86 Code.)


246.205 Spanish income tax. Taxes paid under the Spanish foreign source law are not allowable foreign tax credit. (Secs. 901, 904, 905; '86 Code.)


246.206 Swiss taxes. The Swiss National Defense Tax, Stamp Duties Tax, and Federal Withholding Tax are income taxes allowable as a foreign tax credit. Modified to provide that the part of the tax imposed by Article 48 of the Swiss Defense Tax, as amended, as a supplementary tax on personal income, and that part of the Federal Withholding Tax, not recompensed by the Revenue Act of 1978, are income taxes allowable as a foreign tax credit. §§1.901-1, 1.902-3. (Secs. 901, 902; '86 Code.)


246.207 Swiss taxes. For purposes of section 906(a)(1), the proper method of accrual of the Swiss National Defense Tax, assessed on corporate net profits for the two year period preceding the first year of a biennial assessment period, is set forth for the first years of existence of a Swiss subsidiary of a domestic corporation. Amplified by Rev. Rul. 83-85. §1.960-1. (Sec. 900, '86 Code.)


246.208 Swiss taxes. For purposes of computing the foreign tax credit under section 960 for a tax year in which a controlled foreign corporation incurs it net loss, the Swiss National Defense Tax accrues in each calendar year for which the tax is assessed, regardless of the amount of the corporation's earnings and profits, if any, in the year of
246.227 Venezuelan Branch Profit Tax. The Venezuelan Branch Profit Tax imposed on the Venezuelan branches of foreign companies, character and Panamanian companies, foreign and Panamanian companies operating in the Western Hemisphere outside the United States and Panama include in income of life insurance companies items not taxable in the United States, the foreign income taxable under section 131 of the 1939 Code will not be limited except as provided in that section. Rev. Proc. 81–58, 1981–2 C.B. 623.

246.228 Venezuelan social security tax. The Venezuelan social security tax imposed on the salary of employees in an income tax for which a foreign tax credit is allowable; however, no credit is allowable for that portion levied on employers. §39.131(a)-1. Rev. Proc. 69-338, 1969-1 C.B. 194.

246.229 Virgin Islands; tax withheld by subsidiary. A United States parent corporation is entitled to claim the foreign tax credit with respect to the Virgin Island tax paid on its behalf by its Virgin Islands subsidiary on dividends it receives from such subsidiary as well as any tax paid by the parent corporation directly to the Virgin Islands. §§1.902-1, 1.905-1, 1.901-1. (Secs. 901, 902, 905, '86 Code.) Rev. Proc. 80-18, 1980-1 C.B. 196.

246.230 Virgin Islands subsidiary. The amount of a subsidy received by a Virgin Islands subsidiary of a U.S. corporation, under the Virgin Islands Industrial Incentive Program, is not an item of gross income for purposes of determining the consolidated income attributable to all Western Hemisphere trade corporations in the gross-up. Whether the section 922 deduction is computed on the consolidated income attributable to all Western Hemisphere trade corporations in the gross-up, the consolidated section 922 deduction is allocated only to the profit corporations. §§1.904-1, 1.922-1, 1.1502-31A, 1.1502-43A. (Secs. 904, 922, 1502, '86 Code.) Rev. Proc. 56-618, 1958-2 C.B. 430.


246.233 Western Hemisphere trade corporations; member of affiliated group; carrybacks
and carryovers. The amount of the foreign tax reduction required by reason of the inclusion of Western Hemisphere trade corporations in an affiliated group filing consolidated returns and using the overall limitation in determining the foreign tax credit qualifies for the foreign tax credit carryback and carryover provisions of former section 904(d). Rev. Rul. 74–72 revoked. §§1.904-2, 1.1503-1. (Secs. 904, 1503; ’86 Code.) Rev. Rul. 85–55, 1985–1 C.B. 323.

246.234 Zurich, Switzerland; personal fortune tax. The personal fortune tax levied on a U.S. citizen residing in Zurich, Switzerland is not allowable as a foreign tax credit; however, the portion allocable to securities held for the production of income is deductible under section 164. §§1.164-1, 1.901-1. (Secs. 164, 901; ’86 Code.) Rev. Rul. 70-464, 1970-2 C.B. 152.