

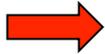
Reg. Section 1.904(j)-1(b)(2)

Certain individuals exempt from foreign tax credit limitation

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(b) Coordination with carryover rules.

(1) No carryovers to or from election year. If the taxpayer elects to apply section 904(j) for any taxable year, then no taxes paid or accrued by the taxpayer during such taxable year may be deemed paid or accrued under section 904(c) in any other taxable year, and no taxes paid or accrued in any other taxable year may be deemed paid or accrued under section 904(c) in such taxable year.



(2) Carryovers to and from other years determined without regard to election years. The amount of the foreign taxes paid or accrued, and the amount of the foreign source taxable income, in any year for which the taxpayer elects to apply section 904(j) shall not be taken into account in determining the amount of any carryover to or from any other taxable year. However, an election to apply section 904(j) to any year does not extend the number of taxable years to which unused foreign taxes may be carried under section 904(c) and §1.904-2(b). Therefore, in determining the number of such carryover years, the taxpayer must take into account years to which a section 904(j) election applies.

(3) Determination of amount of creditable foreign taxes. Otherwise allowable carryovers of foreign tax credits from other taxable years shall not be taken into account in determining whether the amount of creditable foreign taxes paid or accrued by an individual during a taxable year exceeds \$300 (\$600 in the case of a joint return) for purposes of section 904(j)(2)(B).

(c) Examples. The following examples illustrate the provisions of this section:

Example (1). In 2006, X, a single individual using the cash basis method of accounting for income and foreign tax credits, pays \$100 of foreign taxes with respect to general limitation income that was earned and included in income for United States tax purposes in 2005. The foreign taxes would be creditable under section 901 but are not shown on a payee statement furnished to X. X's only income for 2006 from sources outside the United States is qualified passive income, with respect to which X pays \$200 of creditable foreign taxes shown on a payee statement. X may not elect to apply section 904(j) for 2006 because some of X's foreign taxes are not creditable foreign taxes within the meaning of section 904(j)(3)(B).

Example (2).

(i) In 2009, A, a single individual using the cash basis method of accounting for income and foreign tax credits, pays creditable foreign taxes of \$250 attributable to passive income. Under section 904(c), A may also carry forward to 2009 \$100 of unused foreign taxes paid in 2005 with respect to passive income, \$300 of unused foreign taxes paid in 2005 with respect to general limitation income, \$400 of unused foreign taxes paid in 2006 with respect to passive income, and \$200 of unused foreign taxes paid in 2006 with respect to general limitation income. In 2009, A's only foreign source income is passive income described in section 904(j)(3)(A)(i), and this income is reported to A on a payee statement (within the meaning of section 6724(d)(2)). If A elects to apply section 904(j) for the 2009 taxable year, the unused foreign taxes paid in 2005 and 2006 are not deemed paid in 2009, and A therefore cannot claim a foreign tax credit for those taxes in 2009.

(ii) In 2010, A again is eligible for and elects the application of section 904(j). The carryforwards from 2005 expire in 2010. The carryforward period established under section 904(c) is not extended by A's election under section 904(j). In 2011, A does not elect the application of section 904(j). The \$600 of unused foreign taxes paid in 2006 on passive and general limitation income are deemed paid in 2011, under section 904(c), without any adjustment for any portion of those taxes that might have been used as a foreign tax credit in 2009 or 2010 if A had not elected to apply section 904(j) to those years.

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