

Possessions Corporation Tax Credit Allowed Under Section 936

▶ Attach to your tax return

For calendar year 19 , or other tax year beginning , 19 , and ending , 19 .

Name	Employer identification number
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Part I Gross Income in Applicable Period (See instructions.)

Tax year (Use a separate line for each tax year ending with or within your applicable period. Start with the earliest such tax year.)		(c) Name of U.S. possession in which trade or business was actively conducted	Periods in which trade or business was actively conducted in a U.S. possession (Dates are inclusive)	
(a) Beginning	(b) Ending		(d) From—	(e) To—

Gross income during periods shown in columns (d) and (e)

Gross income from the active conduct of a trade or business in a U.S. possession			(i) Gross qualified possession source investment income	All other gross income		
(f) From sources in U.S. possessions	(g) From all other sources outside the U.S.	(h) From sources in the U.S.		(j) From sources in U.S. possessions	(k) From all other sources outside the U.S.	(l) From sources in the U.S.
Totals						

1 Total gross income in applicable period (add totals of columns (f) through (l))	1
2 Gross income in applicable period from sources in U.S. possessions (add total of columns (f), (i), and (j))	2
3 Divide line 2 by line 1 (if less than 80%, do not complete Parts II and III).	3
4 Gross income from the active conduct of a trade or business in a U.S. possession (total of columns (f), (g), and (h)).	4
5 Divide line 4 by line 1 (if less than 75%, do not complete Parts II and III)	5

Part II Possessions Corporation Tax Credit (See instructions.)

6 Qualified gross income in current year:				
a From sources outside the U.S. from the active conduct of a trade or business in a U.S. possession	6a			
b From sources outside the U.S. from the sale or exchange of substantially all assets used in a possessions trade or business	6b			
c Gross qualified possession source investment income	6c			
d Amounts received in the U.S.	6d			
e Intangible property income subject to section 936(h)(2).	6e			
f Other intangible property income	6f			
g Add lines 6a, 6b, and 6c	6g			
h Add lines 6d, 6e, and 6f	6h			
i Subtract line 6h from line 6g			6i	
7 Applicable deductions (attach schedule):				
a Cost sharing amount	7a			
b Definitely allocable deductions	7b			
c Ratable part of deductions not definitely allocable	7c			
d Total (add lines 7a, 7b, and 7c).			7d	
8 Qualified taxable income before adjustments (subtract line 7d from line 6i)			8	
9 Adjustments (attach schedule):				
a Current year losses from nonqualified sources.	9a			
b Recapture of prior year overall foreign losses	9b			
c Income against which foreign tax credit is claimed	9c			
d Total (add lines 9a, 9b, and 9c).			9d	
10 Qualified taxable income (subtract line 9d from line 8)			10	
11 Total taxable income from all sources (enter taxable income from the corporation's tax return)			11	
12 Divide line 10 by line 11			12	
13 Total U.S. income tax against which section 936 credit is allowed (see General Instruction C).			13	
14 Section 936 credit (multiply line 12 by line 13). Enter here and on the corporation's tax return			14	

Part III Summary From Schedule P (Form 5735) (See instructions.)

15	Enter the total sales of possession products to which each income method applies:	
a	Cost sharing method	15a
b	Profit split method	15b
16	Enter the total sales of possession products which qualify under each business presence test:	
a	Direct labor test	16a
b	Value-added test	16b
c	Alternative test	16c
d	Start-up test	16d
e	None of the above	16e

General Instructions

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

Paperwork Reduction Act Notice.—We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

- Recordkeeping** 11 hr., 43 min.
- Learning about the law or the form** 2 hr., 5 min.
- Preparing and sending the form to the IRS** 2 hr., 22 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form more simple, we would be happy to hear from you. You can write to both the IRS and the Office of Management and Budget at the addresses listed in the instructions for the tax return with which this form is filed.

A. Purpose of Form.—A domestic corporation (other than an S corporation) that has elected to be treated as a possessions corporation must complete and attach Form 5735 to its income tax return for each year the election is in effect. Form 5735 is used to figure the possessions corporation tax credit under section 936. The credit is allowed against income tax imposed by Chapter 1. Puerto Rico and the Virgin Islands are U.S. possessions for purposes of this credit.

B. Qualifying for the Credit.—To qualify for the possessions corporation tax credit a corporation must have:

1. filed a valid **Form 5712**, Election To Be Treated as a Possessions Corporation Under Section 936;
2. derived 80% or more of its gross income from sources in a U.S. possession during the applicable period (see definition in Part I below) immediately before the tax year ended; and
3. derived 75% or more of its gross income from the active conduct of a trade or business in a U.S. possession during the applicable period immediately before the tax year ended.

C. Restrictions.—A corporation is ineligible to take the possessions corporation tax credit for any tax year it is a IC-DISC or former IC-DISC, or for any tax year in which it owns stock in a IC-DISC or FSC, or former IC-DISC or former FSC (section 936(f)).

The credit is not allowed against the following taxes:

- environmental tax (section 59A)
- tax on accumulated earnings (section 531)
- personal holding company tax (section 541)
- additional tax for recovery of foreign expropriation losses (section 1351)

- tax increase on the early disposition of investment credit property (section 50)
- recapture of low-income housing credit (section 42(j)(4)(D))

D. Where To File.—Attach Form 5735 to the corporation's income tax return and file it with the Internal Revenue Service Center, Philadelphia, PA 19255.

E. Alternative Minimum Tax.—Income eligible for the possessions corporation tax credit is not taxed under the alternative minimum tax rules. See Form 4626.

F. Form 5712-A.—Use **Form 5712-A**, Election and Verification of the Cost Sharing or Profit Split Method Under Section 936(h)(5), to elect the cost sharing or profit split method of computing taxable income for these types of income.

Specific Instructions

See sections 638, 861-864, and 936 to determine if the source of gross income, deductions, and taxable income is in or outside the U.S. or in a U.S. possession. Amounts received in the U.S. may be considered sourced outside the U.S. if they are from sources outside the U.S. and received from an unrelated person in the active conduct of a trade or business (section 936(b)).

The corporation cannot take a deduction or foreign tax credit for taxes it paid or accrued to a foreign country or U.S. possession if any of the income on which those taxes were paid or accrued is used in computing the possessions corporation tax credit.

Part I

The "applicable period" is generally the shorter of 36 months or the period when the corporation actively conducted a trade or business in a U.S. possession.

Column (f).—Include amount(s) reported on line 6 of Part II of Schedule(s) P.

Column (i).—Certain loans of qualified funds by a qualified financial institution are considered investments for use in Puerto Rico. These loans must either be investments in active business assets or for investment in development projects in a qualified Caribbean Basin country. The investment must be authorized prior to disbursement of the funds by the Commissioner of Financial Institutions of Puerto Rico. Also, the agreements, certifications, and due diligence requirements of Regulations section 1.936-10(c)(11), (12), and (13) must be met. See Regulations section 1.936-10 for details and the effective date.

Part II

Line 6a.—Include amount(s) reported on line 6 of Part II of Schedule(s) P.

Line 6d.—Do not include any amount from sources outside the U.S. and received from a person who is not a related person in the active conduct of a trade or business in a U.S. possession. Instead, include these amounts on line 6a, 6b, or 6c, whichever is applicable.

Line 6f.—Enter the amount of marketing intangible property income which is associated with any product(s) subject to the cost sharing method and which is not included in the gross income of a shareholder because such a shareholder is a foreign person or a tax-exempt U.S. person. See Regulations section 1.936-6(a)(5).

Line 7a.—If the cost sharing method applies, enter the sum of all cost sharing amounts entered on line 7, Part I of Schedule(s) P.

Line 7b.—Include all amounts entered on line 7, Part II of Schedule(s) P. Also include the corporation's other definitely allocable deductions.

Line 7c.—Enter the ratable part of deductions that cannot be definitely allocated to qualified income. To obtain this figure, reduce the deductions by the amount entered on line 7b. Multiply this result by the amount obtained when you divide the amount entered on line 6i by the gross income on the corporation's income tax return.

Line 9a.—If the corporation sustained a loss for the current year on any type of income for which a separate foreign tax credit limit applies, allocate the loss to the possessions income that qualifies for the credit in proportion to the ratio of that income to total taxable income, excluding the loss.

Line 9b.—If the corporation sustained an overall foreign loss in any year, the loss is recaptured in later tax years by treating part of the corporation's taxable income from sources outside the U.S. as income from sources in the U.S. (section 904(f)).

Part III

The corporation is not required to complete Part III if it has attached less than 10 Schedules P. Part III information will not affect the corporation's tax liability. However, failure to complete this part, if required, will delay the processing of Form 5735.

Line 15.—Enter on line 15a the sum of sales of possession products (as reported on line 2 of Part I of Schedule(s) P) subject to the cost sharing method. Enter on line 15b the sum of sales of possession products (as reported on line 2 of Part I of Schedule(s) P) subject to the profit split method.

Line 16.—Enter on lines 16a through 16e the sum of sales of possession products (as reported on line 2 of Part I of Schedule(s) P) which have met the listed business presence test. Total sales included on lines 16a through 16e should equal the total of lines 15a and 15b.