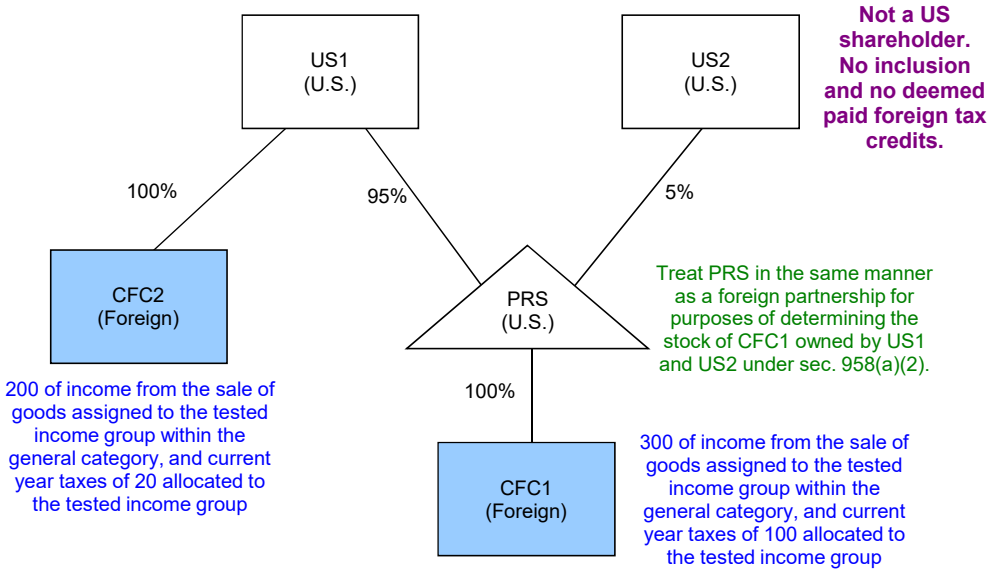
Reg. 1.960-2(c)(7)(ii), Example 2

Deemed Paid Foreign Income Taxes: GILTI Inclusion, CFC Owned Thru P'ship

(A) Facts—(1) US1, a domestic corporation, owns 95% of PRS, a domestic partnership. The remaining 5% of PRS is owned by US2, a domestic corporation that is unrelated to US1. PRS owns all of the stock of CFC1, a controlled foreign corporation. In addition, US1 owns all of the stock of CFC2, a controlled foreign corporation. US1, US2, PRS, CFC1, and CFC2 all use the calendar year as their taxable year. CFC1 and CFC2 both use the "u" as their functional currency. At all relevant times, 1u=$1x. For its U.S. taxable year ending December 31, 2018, after application of the rules in Reg. 1.960-1(d), the income of CFC1 is assigned to a single income group: 300u of income from the sale of goods in a tested income group within the general category ("CFC1's tested income group"). CFC1 has current year taxes, translated into U.S. dollars, of $100x that are all allocated and apportioned to CFC1's tested income group. The income of CFC2 is also assigned to a single income group: 200u of income from the sale of goods in a tested income group within the general category ("CFC2's tested income group"). CFC2 has current year taxes, translated into U.S. dollars, of $20x that are allocated and apportioned to CFC2's tested income group.



(2) Under Reg. 1.951A-1(e)(1), for purposes of determining the GILTI inclusion amount of US1 and US2, PRS is not treated as owning (within the meaning of section 958(a)) the stock of CFC1; instead, PRS is treated in the same manner as a foreign partnership for purposes of determining the stock of CFC1 owned by US1 and US2 under section 958(a)(2). Therefore, only US1 is a United States shareholder of CFC1. Taking into account both CFC1 and CFC2, US1 has a GILTI inclusion amount in the general category of $485x, and an aggregate amount described in section 951A(c)(1)(A) and Reg. 1.951A-1(c)(2)(i) within the general category of $485x. 285u (95% × 300u) of the income in CFC1's tested income group and 200u of the income in CFC2's tested income group is included in computing US1's aggregate amount described in section 951A(c)(1)(A) and Reg. 1.951A-1(c)(2)(i) within the general category. Because US2 is not a U.S. shareholder with respect to CFC1, US2 does not take into account CFC1's tested income in determining its GILTI inclusion amount.

(B) Analysis—(1) US1—(i) CFC1. Under Reg. 1.960-2(c)(5) and (6), US1's proportionate share of the current year taxes that are allocated and apportioned under Reg. 1.960-1(d)(3)(ii) to CFC1's tested income group is $95x ($100x × 285u/300u). Therefore, under Reg. 1.960-2(c)(4), the amount of the current year taxes properly attributable to tested income taken into account by US1 under section 951A(a) and Reg. 1.951A-1(b) is $95x. Under Reg. 1.960-2(c)(3), US1's tested foreign income taxes with respect to CFC1 are $95x. Under Reg. 1.960-2(c)(2), US1's inclusion percentage is 100% ($485x/$485x). Accordingly, under Reg. 1.960-2(c)(1), US1 is deemed to have paid $76x of the foreign income taxes of CFC1 (80% × 100% × $95x).

(ii) CFC2. Under Reg. 1.960-2(c)(5), US1's proportionate share of the foreign income taxes that are allocated and apportioned under Reg. 1.960-1(d)(3)(ii) to CFC2's tested income group is $20x ($20x × 200u/200u). Therefore, under Reg. 1.960-2(c)(4), the amount of foreign income taxes properly attributable to tested income taken into account by US1 under section 951A(a) and Reg. 1.951A-1(b) is $20x. Under Reg. 1.960-2(c)(3), US1's tested foreign income taxes with respect to CFC2 are $20. Under Reg. 1.960-2(c)(2), US1's inclusion percentage is 100% ($485x/$485x). Accordingly, under Reg. 1.960-2(c)(1), US1 is deemed to have paid $16 of the foreign income taxes of CFC2 (80% × 100% × $20x).

(2) US2. US2 is not a United States shareholder of CFC1 or CFC2. Accordingly, under Reg. 1.960-2(c)(1), US2 is not deemed to have paid any of the foreign income taxes of CFC1 or CFC2.