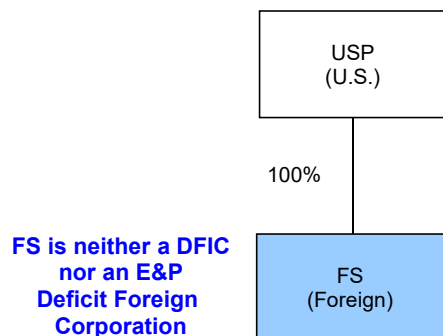


**Prop'd Reg. 1.965-1(g),
Example 5**

**Determination of Status as a DFIC or an E&P Deficit
Foreign Corp (Neither a DFIC Nor a Def. Corp)**

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Sec. 959(c)(2) E&P (PTI) as of 11/2/17 & 12/31/17	100
Sec. 959(c)(3) E&P (non-PTI) as of 11/2/17 & 12/31/17	(90)
Post-1986 E&P	10

USP, a domestic corporation, owns all of the stock of FS, a foreign corporation. As of both November 2, 2017, and December 31, 2017, FS has 100u of earnings and profits described in section 959(c)(2) and a deficit of 90u in earnings and profits described in section 959(c)(3), all of which were accumulated in taxable years beginning after December 31, 1986, while FS was a specified foreign corporation. Accordingly, as of both November 2, 2017, and December 31, 2017, FS has 10u of post-1986 earnings and profits.

(A) Determination of status as a DFIC: Under Prop. Reg. 1.965-1(f)(17), for purposes of determining whether FS is a DFIC, a determination must be made whether FS has accumulated post-1986 deferred foreign income greater than zero as of either the E&P measurement date on November 2, 2017, or the E&P measurement date on December 31, 2017. Under section 965(d)(2) and Prop. Reg. 1.965-1(f)(7), FS's accumulated post-1986 deferred foreign income is its post-1986 earnings and profits, except to the extent such earnings and profits are attributable to income of the specified foreign corporation that is effectively connected with the conduct of a trade or business within the United States and subject to tax under chapter 1, or that, if distributed, would be excluded from the gross income of a United States shareholder under section 959 or from the gross income of another shareholder if such shareholder were a United States shareholder. Disregarding FS's 100u of post-1986 earnings and profits described in Prop. Reg. 1.965-1(f)(7)(i)(B), FS has a 90u deficit in accumulated post-1986 deferred foreign income as of both E&P measurement dates. Accordingly, FS does not have accumulated post-1986 deferred foreign income greater than zero as of either E&P measurement date and therefore FS is not a DFIC.

(B) Determination of status as an E&P deficit foreign corporation: Under Prop. Reg. 1.965-1(f)(22)(i), for purposes of determining whether FS is an E&P deficit foreign corporation, a determination must be made whether FS has a deficit in post-1986 earnings and profits as of the E&P measurement date on November 2, 2017. Under Prop. Reg. 1.965-1(f)(22)(ii), because the deficit in the earnings and profits of FS described in section 959(c)(3) of 90u does not exceed the earnings and profits of FS described in section 959(c)(2) of 100u, FS does not have a deficit in post-1986 earnings and profits as of the E&P measurement date on November 2, 2017, and therefore FS is not an E&P deficit foreign corporation. Accordingly, FS is neither a DFIC nor an E&P deficit foreign corporation.