Reg. 1.338-9(f), Example 4

**Creeping Acquisition of CFC (Foreign Seller)**

**Initial Structure**

1. P (U.S.)
   - Cash
   - FS (Foreign)
   - FT (Foreign)
   - 100%

**First Purchase (July 1, 1994)**

2. P (U.S.)
   - Cash
   - FS (Foreign)
   - FT (Foreign)
   - 60% of FT Stock

**Second Purchase & 338 Election (Dec. 31, 1994)**

3. P (U.S.)
   - Cash
   - FS (Foreign)
   - FT (Foreign)
   - 40% of FT Stock

**Ending Point**

4. P (U.S.)
   - Cash
   - FS (Foreign)
   - FT (Foreign)
   - 100%

FS owns 100% of the FT stock. On July 1, 1994, P buys 60% of the FT stock. On December 31, 1994, P buys the remaining 40% of the FT stock and makes a section 338 election for FT. For tax year 1994, FT has earnings and profits of $1,000 (including earnings resulting from the deemed sale). The section 338 election results in $500 of subpart F income. As a result of the section 338 election, P must include in gross income the following amount under section 951(a)(1)(A) (see §1.951-[1](b)(2)):

FT's subpart F income for 1994 .................................................   $500
Less: reduction under section 951(a)(2)(A) for period (1-1-94 through 7-1-94) during which FT is not a controlled foreign corporation ($500 X 182/365) ....................................................    249.32

Subpart F income as limited by section 951(a)(2)(A) ............... $250.68
P's pro rata share of subpart F income as determined under section 951(a)(2)(A) (60% X 250.68) .................................   $150.41

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