

## Reg. 1.951A-1(e)(3)(ii), Example 2

## U.S. Tiered Partnerships: Entity & Aggregate For GILTI

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USP, a domestic corporation, and Individual A, a United States citizen, own 90% and 10%, respectively, of PRS1, a domestic partnership. PRS1 and Individual B, a nonresident alien individual, own 90% and 10%, respectively, of PRS2, a domestic partnership. PRS2 owns 100% of the single class of stock of FC, a foreign corporation. USP, Individual A, and Individual B are unrelated to each other.

CFC and United States shareholder determination. Under Reg. 1.951A-1(e)(2), the determination of whether PRS1, PRS2, USP, and Individual A (each a United States person) are United States shareholders of FC and whether FC is a controlled foreign corporation is made without regard to Reg. 1.951A-1(e)(1). PRS2 owns 100% of the total combined voting power or value of the FC stock within the meaning of section 958(a). Accordingly, PRS2 is a United States shareholder under section 951(b), and FC is a controlled foreign corporation under section 957(a). Under sections 958(b) and 318(a)(2)(A), PRS1 is treated as owning 90% of the FC stock owned by PRS2. Accordingly, PRS1 is a United States shareholder under section 951(b). Further, under section 958(b)(2), PRS1 is treated as owning 100% of the FC stock for purposes of determining the FC stock treated as owned by USP and Individual A under section 318(a)(2)(A). Therefore, USP is treated as owning 90% of the FC stock under section 958(b) ( $100\% \times 100\% \times 90\%$ ), and Individual A is treated as owning 10% of the FC stock under section 958(b) ( $100\% \times 100\% \times 10\%$ ). Accordingly, both USP and Individual A are United States shareholders of FC under section 951(b).

Application of section 951A. Under Reg. 1.951A-1(e)(1), for purposes of determining a GILTI inclusion amount under section 951A and Reg. 1.951A-1(b), PRS1 and PRS2 are not treated as owning (within the meaning of section 958(a)) the FC stock; instead, PRS1 and PRS2 are treated in the same manner as foreign partnerships for purposes of determining the FC stock owned by USP and Individual A under section 958(a)(2). Therefore, for purposes of determining the GILTI inclusion of USP and Individual A, USP is treated as owning 81% ( $100\% \times 90\% \times 90\%$ ) of the FC stock under section 958(a), and Individual A is treated as owning 9% ( $100\% \times 90\% \times 10\%$ ) of the FC stock under section 958(a). Because USP and Individual A are both United States shareholders of FC, USP and Individual A determine their respective pro rata shares of any tested item of FC based on their ownership of section 958(a) stock of FC.

