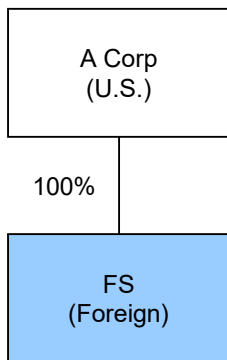


**Reg. 1.951A-2(c)(4)(iv)(A),
Example 1**

**E&P Limit for Sub F Due To
FOGEI Loss, With Later Tested
Income Plus Sub F Recapture**

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	<u>Gross (& net) Tested Income</u>	<u>Passive FPHCI</u>	<u>General FOGEI</u>	<u>Total E&P</u>	
Year 1	0	100	(100)	0	Sub F limited to E&P
Year 2	100	0	0	100	Sub F recapture & tested income

**Potential for inclusions of 200 in Year 2:
100 of tested income and
100 of Sub F recapture**

A Corp, a domestic corporation, owns 100% of the single class of stock of FS, a controlled foreign corporation. Both A Corp and FS use the calendar year as their taxable year. In Year 1, FS has passive category foreign personal holding company income of \$100x, a general category loss in foreign oil and gas extraction income of \$100x, and earnings and profits of \$0. FS has no other income. In Year 2, FS has general category gross income of \$100x and earnings and profits of \$100x. Without regard to section 952(c)(2), in Year 2 FS has no income described in any of the categories of income excluded from gross tested income in Reg. 1.951A-2(c)(1)(i) through (v). FS has no allowable deductions properly allocable to gross tested income for Year 2.

Year 1. As a result of the earnings and profits limitation of section 952(c)(1)(A), FS has no subpart F income in Year 1, and A Corp has no inclusion with respect to FS under section 951(a)(1)(A). Under Reg. 1.951A-2(c)(4)(iii)(A), gross income described in section 951A(c)(2)(A)(i)(II) and Reg. 1.951A-2(c)(1)(ii) includes any item of gross income excluded from the subpart F income of FS for Year 1 under section 952(c)(1)(A) and Reg. 1.952-1(c). Therefore, the \$100x foreign personal holding company income of FS in Year 1 is excluded from gross tested income by reason of section 951A(c)(2)(A)(i)(II) and Reg. 1.951A-2(c)(1)(ii), and FS has no gross tested income in Year 1.

Year 2. In Year 2, under section 952(c)(2) and Reg. 1.952-1(f)(2), FS's general category earnings and profits (\$100x) in excess of its subpart F income (\$0) give rise to the recharacterization of its passive category recapture account as subpart F income. Therefore, FS has passive category subpart F income of \$100x in Year 2, and A Corp has an inclusion of \$100x with respect to FS under section 951(a)(1)(A). Under Reg. 1.951A-2(c)(4)(iii)(B), gross income described in section 951A(c)(2)(A)(i)(II) and Reg. 1.951A-2(c)(1)(ii) does not include any item of gross income that results in the recharacterization of earnings and profits as subpart F income in FS's taxable year under section 952(c)(2) and Reg. 1.952-1(f)(2). Accordingly, the \$100x of general category gross income of FS in Year 2 is not excluded from gross tested income by reason of section 951A(c)(2)(A)(i)(II) and Reg. 1.951A-2(c)(1)(ii), and FS has \$100x of general category gross tested income in Year 2.

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