

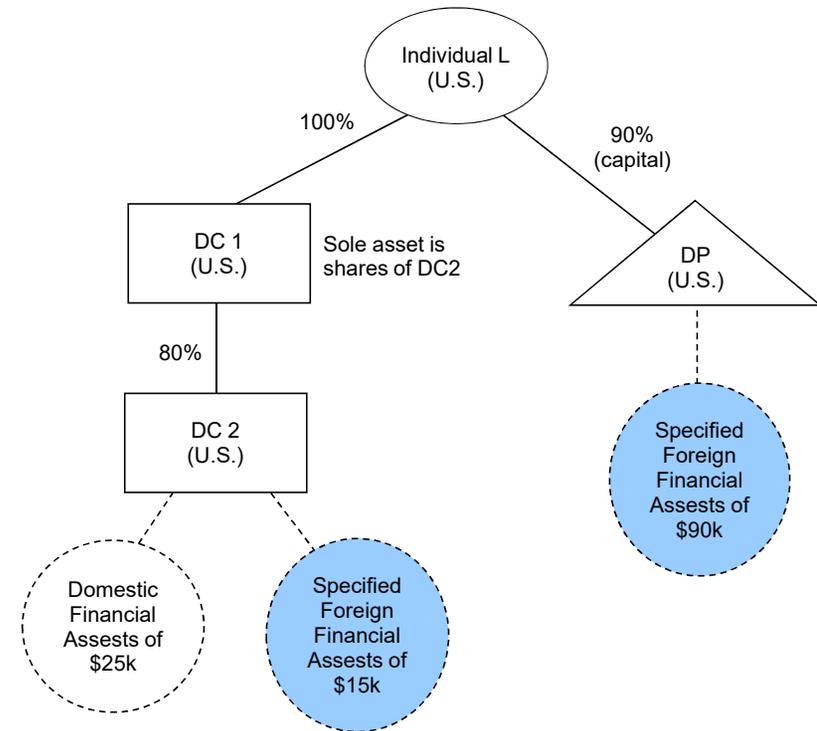
Reg. 1.6038D-6(b)(4), Example 2

Form 8938: Aggregation Rule & Reporting Threshold

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L is a specified individual. In Year X, L wholly owns DC1, a domestic corporation, and also owns a 90% capital interest in DP, a domestic partnership. DC1 owns 80% of the sole class of stock of DC2, a domestic corporation. DC1 has no assets other than its interest in DC2. DC2's only assets are assets that produce passive income, with a maximum value in Year X of \$40,000 on October 12. DC2's assets are comprised in relevant part of specified foreign financial assets with a maximum value in Year X of \$15,000 on October 12. DP's only assets are assets that produce passive income and that are specified foreign financial assets with a maximum value of \$90,000 in Year X on October 12.

DC1 and DC2 are closely held by a specified individual for purposes of Reg. 1.6038D-6(b)(2). DC1 and DC2 are considered related entities that are connected through stock ownership with a common parent corporation under Reg. 1.6038D-6(b)(3)(iii), because DC1 and DC2 are closely held by L, and DC2 is connected with DC1 through DC1's ownership of stock of DC2 representing at least 80% of the voting power or value of DC2. As a result, for purposes of applying the passive income and asset tests in Reg. 1.6038D-6(b)(1)(ii), each of DC1 and DC2 is considered as owning the combined assets, and receiving the combined income, of both DC1 and DC2; however, DC1's equity interest in DC2 is disregarded for this purpose under Reg. 1.6038D-6(b)(3)(iii). Therefore, DC1 and DC2 each satisfies the passive asset test of Reg. 1.6038D-6(b)(1)(ii), because 100 percent of each company's assets is passive. DC1 and DC2 are specified domestic entities for Year X.



DP is closely held by a specified individual for purposes of Reg. 1.6038D-6(b)(2). DP is not considered a related entity with DC1 and DC2 under Reg. 1.6038D-6(b)(3)(iii), because DC1 and DP are not owned by a common parent corporation or partnership. As a result, whether the passive income or passive asset test of Reg. 1.6038D-6(b)(1)(ii) is met with respect to DP is determined solely by reference to DP's separately earned passive income and separately held passive assets. DP holds only passive assets during Year X and therefore satisfies Reg. 1.6038D-6(b)(1)(ii). DP is a specified domestic entity for Year X.

Under Reg. 1.6038D-2(a)(6)(ii), DC1 is not treated as owning the specified foreign financial assets held by DC2 and DP for purposes of applying the reporting threshold of Reg. 1.6038D-2(a)(1), because DC1 does not have an interest in any specified foreign financial assets. DC1 is not required to file Form 8938 because DC1 does not satisfy the reporting threshold of Reg. 1.6038D-2(a)(1).

Under Reg. 1.6038D-3, DC2 and DP each has an interest in specified foreign financial assets. For purposes of applying the reporting threshold of Reg. 1.6038D-2(a)(1), Reg. 1.6038D-2(a)(6)(ii) provides that DC2 is treated as owning in addition to its own assets the assets of DP, and DP is treated as owning in addition to its own assets the assets of DC2. As a result, DC2 and DP each satisfies the reporting threshold of Reg. 1.6038D-2(a)(1), because the value of the specified foreign financial assets each is considered as owning for purposes of Reg. 1.6038D-2(a)(1) is \$105,000 on October 12, Year X, which exceeds DC2's and DP's \$75,000 reporting threshold. DC2 and DP must each file Form 8938 for Year X to report their respective specified foreign financial assets in which they have an interest and disclose their maximum values as provided in Reg. 1.6038D-4 (\$15,000 in the case of DC2 and \$90,000 in the case of DP).