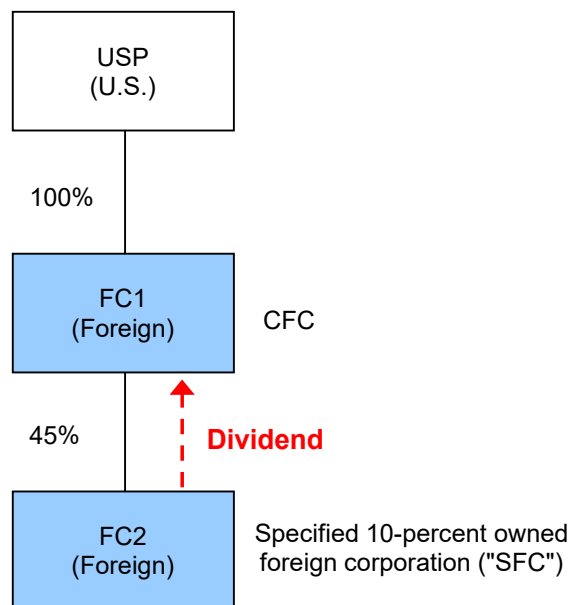


No 245A DRD for Dividends from a SFC to a CFC



Footnote 1486 to the TCJA Conference Report provides in part:

[A] CFC receiving a dividend from a 10-percent owned foreign corporation that constitutes subpart F income may be eligible for the DRD with respect to such income.

USP is a domestic corporation, and FC1 and FC2 are foreign corporations. USP wholly owns FC1. FC1 is a controlled foreign corporation (within the meaning of section 957(a)) (“CFC”). FC1 owns 45% of the single class of stock of FC2, and the remaining stock of FC2 is owned by a nonresident alien individual. FC2 is not a CFC but is a specified 10-percent owned foreign corporation (within the meaning of section 245A(b)) (“SFC”). FC1 receives a dividend from FC2 (the “FC2 Dividend”). FC1 would be allowed the deduction under section 245A(a) with respect to the FC2 Dividend if FC1 were a domestic corporation.

Despite the explicit statement in the TJCA Conference Report (quoted above) that a CFC should be eligible for the dividends received deduction, the IRS concludes in the CCA that no section 245A dividends received deduction is allowed to FC1. This is because the statute provides that the deduction is only allowed for “domestic” corporations. Under the facts above, the dividend from FC2 to FC1 will be Subpart F Income to FC1. Section 954(c)(1)(A).