Notice 2023-80 §2.02(6)(c), Example 3

QDMTT That Is Not A Final Top-Up Tax

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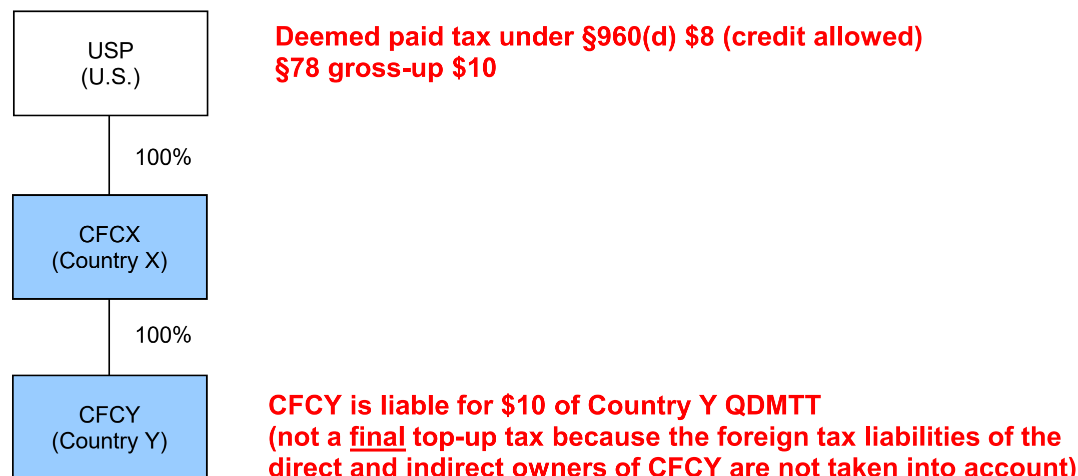

USP is a domestic corporation that owns all the stock of CFCX, a CFC that is organized in, and is a tax resident of, Country X. CFCX owns all the stock of CFCY, a CFC that is organized in, and is a tax resident of, Country Y. Country Y imposes a qualifying domestic-minimum top-up tax (a "QDMTT"). The QDMTT imposed by Country Y is a foreign income tax within the meaning of §1.901-2(a) and (b). Under Country Y tax law, in computing the amount of the QDMTT, the foreign tax liability of direct and indirect owners of the entity subject to the QDMTT is not taken into account. Therefore, any U.S. tax liability of USP is not taken into account in computing the QDMTT. In 2024, CFCY is liable for 10y (units of Country Y currency) of Country Y QDMTT. At all relevant times, 1y= $1. USP is deemed to pay $8 of the Country Y QDMTT under §960(d).

The Country Y QDMTT is not a final top-up tax because Country Y tax law does not take into account in computing the Country Y QDMTT the amount of tax imposed by other countries on the direct and indirect owners of the entity subject to the Country Y QDMTT. Therefore, USP may be allowed a credit under §901 for the $8 of Country Y QDMTT deemed paid under §960(d). The amount included in USP's income by reason of §78 and §1.78-1(a) is $10.

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