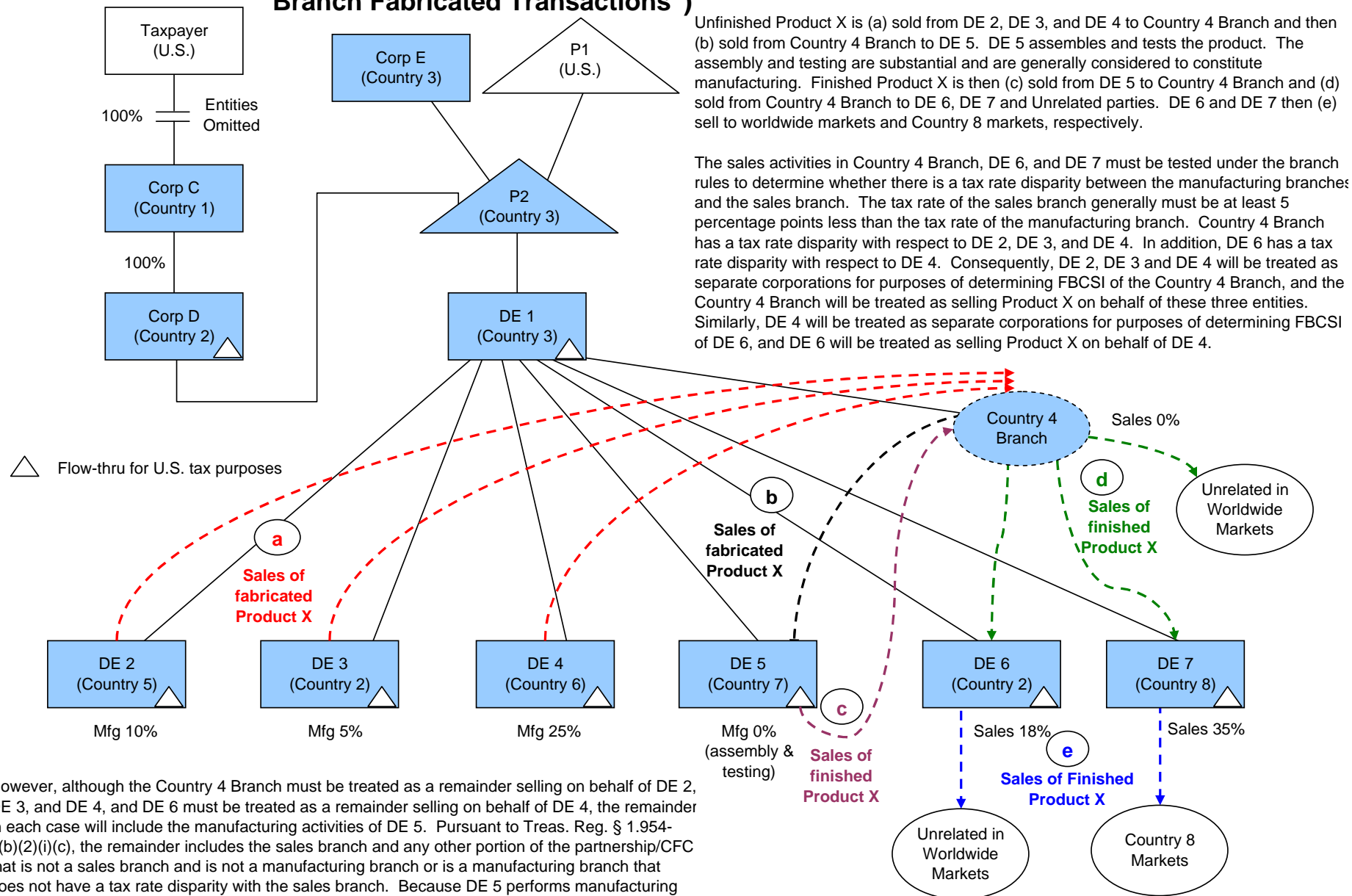


**PLR 201002024 (2) FBCSI - Branch Rule - Tax Rate Disparity  
But No Sub F Due to Remainder  
Qualifying for Mfg Exception ("Foreign  
Branch Fabricated Transactions")**

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Unfinished Product X is (a) sold from DE 2, DE 3, and DE 4 to Country 4 Branch and then (b) sold from Country 4 Branch to DE 5. DE 5 assembles and tests the product. The assembly and testing are substantial and are generally considered to constitute manufacturing. Finished Product X is then (c) sold from DE 5 to Country 4 Branch and (d) sold from Country 4 Branch to DE 6, DE 7 and Unrelated parties. DE 6 and DE 7 then (e) sell to worldwide markets and Country 8 markets, respectively.

The sales activities in Country 4 Branch, DE 6, and DE 7 must be tested under the branch rules to determine whether there is a tax rate disparity between the manufacturing branches and the sales branch. The tax rate of the sales branch generally must be at least 5 percentage points less than the tax rate of the manufacturing branch. Country 4 Branch has a tax rate disparity with respect to DE 2, DE 3, and DE 4. In addition, DE 6 has a tax rate disparity with respect to DE 4. Consequently, DE 2, DE 3 and DE 4 will be treated as separate corporations for purposes of determining FBCSI of the Country 4 Branch, and the Country 4 Branch will be treated as selling Product X on behalf of these three entities. Similarly, DE 4 will be treated as separate corporations for purposes of determining FBCSI of DE 6, and DE 6 will be treated as selling Product X on behalf of DE 4.

However, although the Country 4 Branch must be treated as a remainder selling on behalf of DE 2, DE 3, and DE 4, and DE 6 must be treated as a remainder selling on behalf of DE 4, the remainder in each case will include the manufacturing activities of DE 5. Pursuant to Treas. Reg. § 1.954-3(b)(2)(i)(c), the remainder includes the sales branch and any other portion of the partnership/CFC that is not a sales branch and is not a manufacturing branch or is a manufacturing branch that does not have a tax rate disparity with the sales branch. Because DE 5 performs manufacturing activities, DE 5 will qualify each remainder for the manufacturing exception to FBCSI.