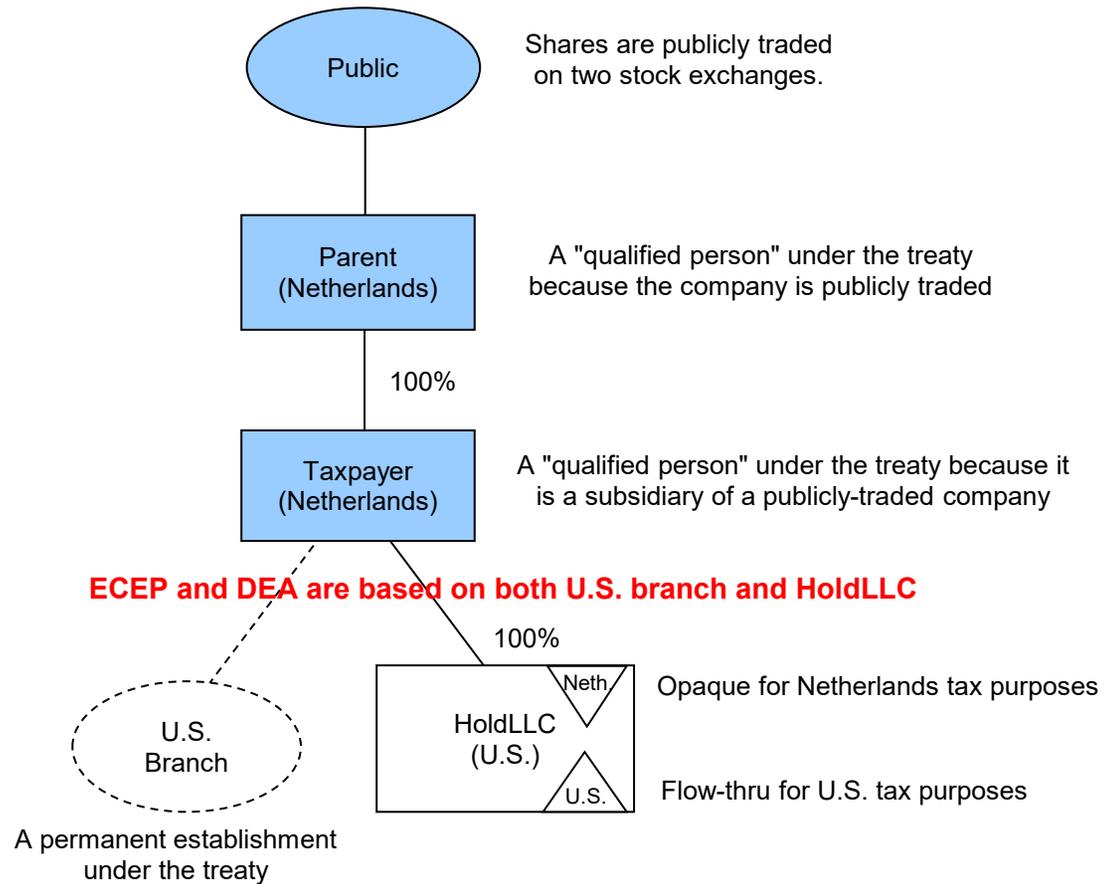


Reduced BPT Rate Allowed for Foreign Corp. Operating Through U.S. LLC

Taxpayer is a Netherlands entity that is classified as a corporation for U.S. tax purposes. Taxpayer qualifies for treaty benefits under the limitation on benefits clause because it is a subsidiary of a publicly-traded company. Taxpayer has a branch in the U.S., and Taxpayer also operates through HoldLLC, which generates U.S. effectively connected income.

The U.S. imposes a 30% branch profits tax on the "dividend equivalent amount" ("DEA") of a foreign corporation. The DEA is the foreign corporation's U.S. effectively connected earnings and profits ("ECEP") for the year, reduced by certain increases in U.S. net equity and increased by certain reductions in U.S. net equity.



The branch profits tax rate is reduced from 30% to the dividend withholding rate under the treaty. However, the treaty provides that if HoldLLC is flow-thru for U.S. tax purposes and opaque for Netherlands tax purposes (both of which are true in this case), income "derived through" HoldLLC does not qualify for treaty benefits. The PLR held that Taxpayer's DEA was not derived through HoldLLC. Therefore, Taxpayer still qualified for the treaty-reduced rate for the branch profits tax.