Revenue Ruling 82-16

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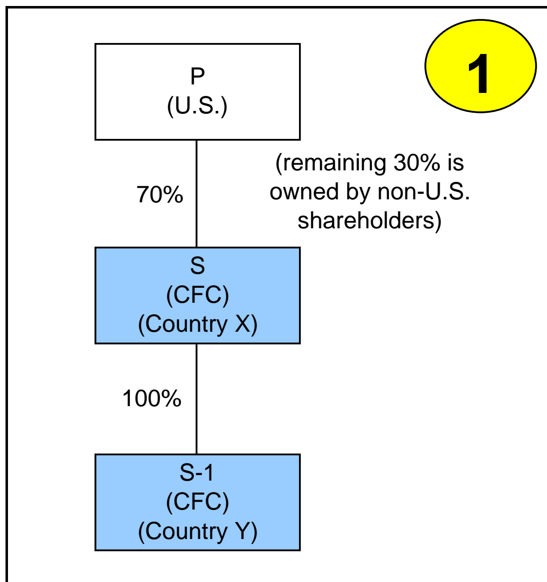
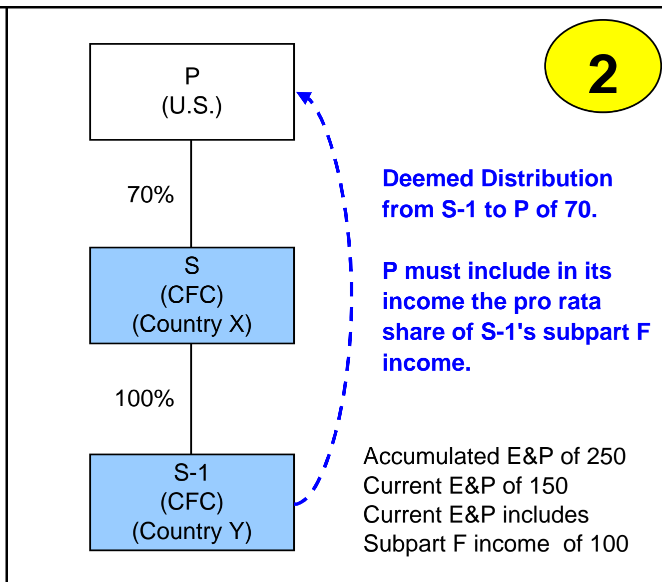
Subpart F Income and PTI Exclusion with Less Than 100% U.S. Ownership

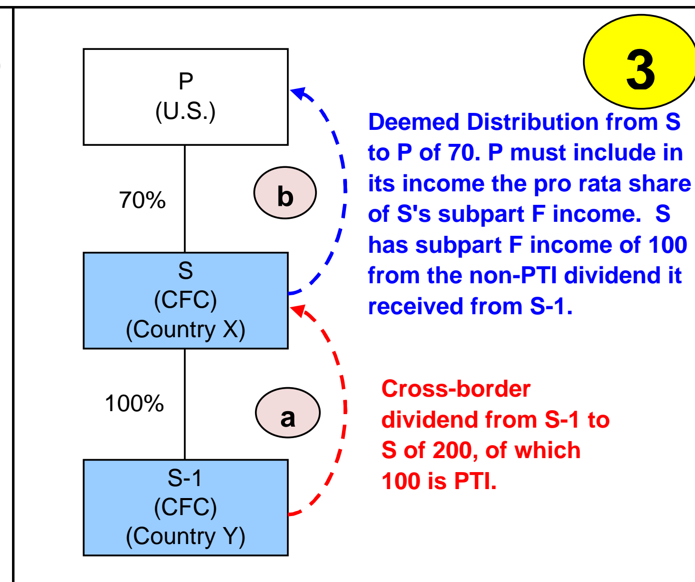
Initial Structure



S-1 Subpart F Income (1980)



Dividend from S-1 to S (1980)



The issue presented by the ruling is whether S should exclude from its gross income [under section 959(b)] 70 or 100 of the S-1 dividend. Stated another way, the question is whether S should be treated as having received (a) 70 or (b) 100 of previously taxed income (PTI) from S-1's 200 dividend. Even though only 70 of S-1's earnings were included in P's taxable income, the ruling concludes that the full 100 should be excluded from S's gross income.

Section 959(b) was enacted for the purpose of preventing the income of a controlled foreign corporation (CFC) from being included in the gross income of the U.S. shareholder a second time when the income is distributed to another CFC. The ruling concludes that section 959(b) looks to the total amount of E&P of the CFC that caused the U.S. shareholder to be in receipt of gross income under section 951(a).

Because the dividend from S-1 to S was a cross border dividend (country Y to country X), to the extent that the dividend exceeded PTI (100), the dividend creates subpart F income at the S level. Thus, S has subpart F income of 100 and P's pro rata share is 70. For the year 1980, P has 140 of subpart F income inclusions.

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