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Department of the Treasury
Washington, DC 20224

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, ID No.

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Date:
March 11, 2025

TY:

LEGEND

Taxpayer	=
P	=
U	=
CFC 1	=
Members of Taxpayer's CFC Group	=

Tax Year 1	=
Tax Year 2	=
Date 1	=
Date 2	=
Date 3	=
Accounting Firm 1	=
Accounting Firm 2	=
Tax Director	=
Tax VP	=
Country A	=
Country B	=

Dear :

This letter responds to a revised letter dated Date 1 and supplemental correspondence submitted on behalf of Taxpayer by its authorized representatives, requesting an extension of time under Treas. Reg. §301.9100-3 of the Procedure and Administration Regulations for Taxpayer to file a global intangible low-taxed income ("GILTI") high-tax exclusion election ("GILTI HTE Election") under Treas. Reg. §1.951A-2(c)(7)(viii) with respect to each controlled foreign corporation (as defined in section 957(a)) ("CFC") that is a member of a CFC Group as defined in Treas. Reg. §1.951A-2(c)(7)(viii)(E)(2)(i), for the CFC inclusion year (as defined in Treas. Reg. §1.951A-1(f)(1)) with respect to Taxpayer that ends with or within Taxpayer's U.S. shareholder inclusion year (as defined in Treas. Reg. §1.951A-1(f)(7)), Tax Year 1.

FACTS

Taxpayer, a domestic corporation, is a direct or indirect shareholder with respect to twenty-nine (29) foreign subsidiaries which comprise Taxpayer's CFC Group. All of these foreign subsidiaries are corporations organized under the laws of Country B. Taxpayer is the controlling domestic shareholder (as defined in Treas. Reg. §1.964-1(c)(5)) of each member of Taxpayer's CFC Group.

In Tax Year 1, Taxpayer was wholly owned by P, the parent company of the P Group organized under the laws of Country A. During Tax Year 1, Taxpayer

directly owned 100 percent of the issued and outstanding equity in U, a company also organized under the laws of Country B and classified as a disregarded entity for U.S. federal income tax purposes.

U owned 100 percent of the issued and outstanding stock in CFC 1. CFC 1 in turn directly owned all the outstanding stock of twenty-four (24) foreign subsidiaries, and directly or indirectly owned a 55 percent interest in four (4) additional foreign subsidiaries. These 28 foreign subsidiaries, together with CFC 1, comprised the Taxpayer's CFC Group.

With respect to each of the 4 foreign subsidiaries that is not wholly owned by CFC 1, the remaining 45 percent interest was owned, directly or indirectly, by a single corporation which is not a U.S. person.

For Tax Year 1, Taxpayer filed a standalone Form 1120, *U.S. Federal Income Tax Return.* The return was timely filed on extension on Date 2.

The Form 1120 for Tax Year 1 as prepared and filed by Taxpayer reported a zero GILTI inclusion for Tax Year 1, consistent with Taxpayer's intention to make the GILTI HTE. However, the return as filed did not include the election statement required under Treas. Reg. §1.951A-2(c)(7)(viii). In the absence of a GILTI HTE Election, Taxpayer would have had a non-zero GILTI inclusion for Tax Year 1.

According to Taxpayer, the employees responsible for preparing and reviewing the Form 1120 for Tax Year 1 did not appreciate that an election statement was required by Treasury regulations to effectuate the GILTI HTE Election. As a result of this oversight, the statement was omitted from the return as filed.

During Tax Year 2, auditors at Accounting Firm 1 conducted a carve-out financial audit that included Taxpayer's Form 1120 for Tax Year 1. On Date 3, auditors at Accounting Firm 1 contacted Tax Director, stating that they had discovered that the GILTI HTE Election statement had not been attached to Taxpayer's Form 1120 for Tax Year 1. Tax Director notified Tax VP on the following day about the omitted election statement.

By Date 3, the 24-month window prescribed in Treas. Reg. §1.951A-2(c)(7)(viii)(A)(2)(i) for making a GILTI HTE Election on an amended return had lapsed. Shortly after Date 3, Taxpayer consulted Accounting Firm 2, which advised Taxpayer about the possibility of requesting relief under Treas Reg. §§ 301.9100-1 and 301.9100-3 to make a late GILTI HTE Election for Tax Year 1.

In connection with this ruling request, Taxpayer has made the following representations:

1. Taxpayer is not currently under examination for Tax Year 1, or any other year in which any issue with respect to the GILTI HTE Election is presented on a return.

2. Tax Year 1, and any other taxable year that would be affected by the GILTI HTE Election had it been timely made, remain open for assessment as of the date of this letter.

3. Taxpayer is the sole "United States shareholder" within the meaning of section 951(b) that directly or indirectly, within the meaning of section 958(a), owns stock with respect to each member of Taxpayer's CFC Group.

4. The request for relief was filed before the failure to make the GILTI HTE Election was discovered by the IRS.

5. Granting the relief will not result in Taxpayer having a lower tax liability in the aggregate for all taxable years affected by the GILTI HTE Election than it would have had if the election had been timely made.

6. Taxpayer does not seek to alter a return position for which an accuracy-related penalty has been or could be imposed under section 6662 at the time this request for relief was made.

7. Taxpayer is not using hindsight in making the decision to seek the relief requested. No specific facts have changed since the due date for making the election that would make the election more advantageous to Taxpayer.

LAW AND ANALYSIS

Section 951A(a) provides that a U.S. shareholder of any CFC for any taxable year of the U.S. shareholder must include in gross income the shareholder's GILTI for that taxable year.

Section 951A(b) provides that the term GILTI means, with respect to any U.S. shareholder for any taxable year of such U.S. shareholder, the excess (if any) of such shareholder's net CFC tested income for such taxable year, over such shareholder's net deemed tangible income return for such taxable year.

Section 951A(c)(1) generally provides that the term "net CFC tested income" means, with respect to any U.S. shareholder for any taxable year, the excess (if any) of the aggregate of such shareholder's pro rata share of the tested income of each CFC with respect to which such shareholder is a U.S. shareholder for such taxable year of such U.S. shareholder, over the aggregate of such shareholder's

pro rata share of the tested loss of each CFC with respect to which such shareholder is a U.S. shareholder for such taxable year of such U.S. shareholder.

Section 951A(c)(2)(A) provides that the term “tested income” means, with respect to any CFC for any taxable year of such CFC, the excess (if any) of the gross income of such corporation determined without regard to certain items of income, including any gross income excluded from the foreign base company income (as defined in section 954) and the insurance income (as defined in section 953) of such corporation by reason of section 954(b)(4), over the deductions (including taxes) properly allocable to such gross income under rules similar to the rules of section 954(b)(5) (or to which such deductions would be allocable if there were such gross income).

Treas. Reg. §1.951A-2(c)(7)(i) generally provides that for purposes of determining the tested income of a CFC, a tentative gross tested income item (determined under Treas. Reg. §1.951A-2(c)(7)(ii)(A)) qualifies for the GILTI HTE Election only if that election is effective with respect to the CFC for the CFC inclusion year and the tentative tested income item with respect to the tentative gross tested income item was subject to an effective rate of foreign tax that is greater than 90 percent of the maximum rate of tax specified in section 11.

Treas. Reg. §1.951A-2(c)(7)(viii)(A)(1) provides that the GILTI HTE Election is made by the controlling domestic shareholder with respect to a CFC for a CFC inclusion year by filing the statement required under Treas. Reg. §1.964-1(c)(3)(ii) with a timely filed original federal income tax return, or with an amended federal income tax return, for the U.S. shareholder inclusion year of each controlling domestic shareholder in which or with which such CFC inclusion year ends; providing any notices required under Treas. Reg. §1.964-1(c)(3)(iii); and providing any additional information required by applicable administrative pronouncements.

Treas. Reg. §1.951A-2(c)(7)(viii)(A)(2)(i) generally provides that a controlling domestic shareholder may make the GILTI HTE Election with an amended federal income tax return, duly filed within 24 months of the unextended due date of the original federal income tax return for the U.S. shareholder inclusion year with or within which the CFC inclusion year ends.

Treas. Reg. §1.951A-2(c)(7)(viii)(E)(1) provides that if a CFC is a member of a CFC Group, the GILTI HTE Election is made with respect to all CFCs that are members of the CFC Group.

Treas. Reg. §1.951A-2(c)(7)(viii)(E)(2)(i) provides that a CFC Group means an affiliated group as defined in section 1504(a) without regard to section 1504(b)(1) through (6), except that section 1504(a) is applied by substituting “more than 50 percent” for “at least 80 percent” each place it appears, and section 1504(a)(2)(A)

is applied by substituting “or” for “and.” For purposes of Treas. Reg. §1.951A-2(c)(7)(viii)(E)(2)(i), stock ownership is determined by applying the constructive ownership rules of section 318(a), other than section 318(a)(3)(A) and (B), by applying section 318(a)(4) only to options (as defined in Treas. Reg. §1.1504-4(d)) that are reasonably certain to be exercised as described in Treas. Reg. §1.1504-4(g), and by substituting in section 318(a)(2)(C) “5 percent” for “50 percent.”

Treas. Reg. §1.951A-2(c)(7)(viii)(D) provides that a GILTI HTE Election is valid only if all the requirements in Treas. Reg. §1.951A-2(c)(7)(viii)(A) are satisfied.

Treas. Reg. §301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue Code, except subtitles E, G, H, and I.

Treas. Reg. §301.9100-1(b) defines the term “regulatory election” as an election whose due date is prescribed by a regulation published in the Federal Register or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Treas. Reg. §301.9100-2 provides automatic extensions of time for making certain elections.

Treas. Reg. §301.9100-3 provides rules for requesting extensions of time for regulatory elections that do not meet the requirements of Treas. Reg. §301.9100-2. It provides that these requests for relief are granted when the taxpayer provides the evidence (including affidavits) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

Treas. Reg. §301.9100-3(b)(1)(i) provides that a taxpayer is deemed to have acted reasonably and in good faith if, among other factors, the taxpayer requests relief before the failure to make the regulatory election is discovered by the IRS. Alternatively, Treas. Reg. §301.9100-3(b)(1)(v) provides that a taxpayer is also deemed to have acted reasonably and in good faith if the taxpayer reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election.

Treas. Reg. §301.9100-1(a) provides that granting an extension of time for making an election is not a determination that a taxpayer is otherwise eligible to make the election or that a taxpayer complied with the other requirements for a valid election.

CONCLUSION

Based on the facts provided and representations made, we conclude that the requirements of Treas. Reg. §§301.9100-1 and 301.9100-3 have been satisfied. Taxpayer is hereby granted an extension of time of one hundred twenty (120) days from the date of this letter to make a GILTI HTE Election with respect to Taxpayer's CFC Group for the CFC inclusion year that ends with or within Taxpayer's U.S. shareholder inclusion year, Tax Year 1. Taxpayer should make the election in a written statement attached to a duly filed Form 1120X for Tax Year 1.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for ruling, it is subject to verification on examination.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

/s/ Mallory Mendrala

Mallory Mendrala
Senior Technical Reviewer, Branch 2
Associate Chief Counsel (International)

Cc: