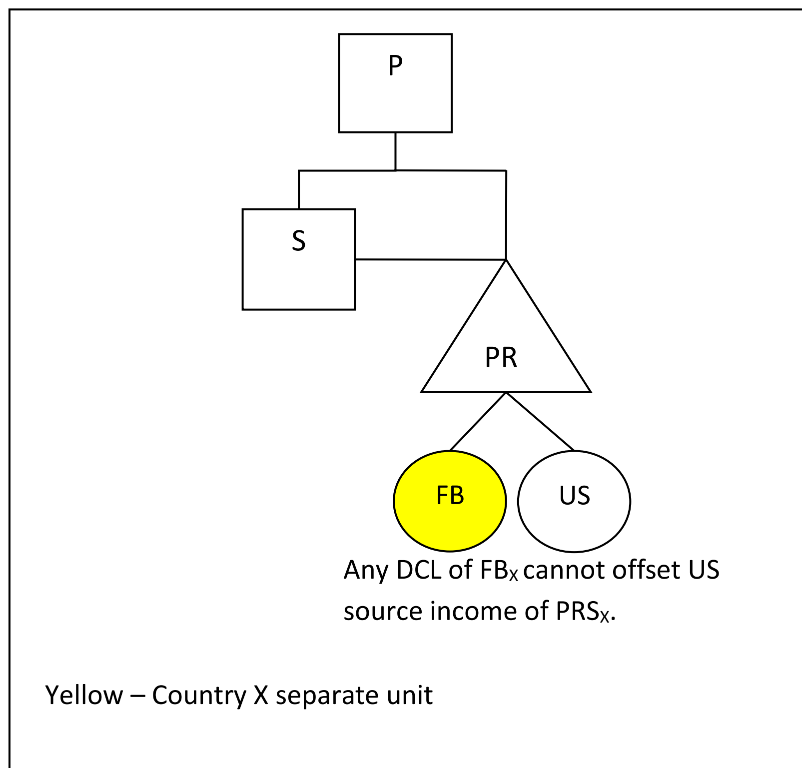
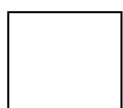
Treas. Reg. §1.1503(d)-7
Example 3

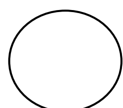
Domestic Use Limitation – Foreign Branch Separate Unit Owned Through a Partnership



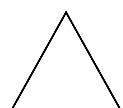
Legend



Corporation



Branch



Partnership

Facts - P and S organize a partnership, PRS_X, under the laws of Country X. PRS_X is treated as a partnership for both U.S. and Country X tax purposes. PRS_X owns FB_X. PRS_X earns U.S. source income that is unconnected with its FB_X branch operations, and such income is not subject to tax by Country X. In addition, such U.S. source income is not attributable to FB_X under §1.1503(d)-5.

Result - Under §1.1503(d)-1(b)(4)(i)(A), P's and S's shares of FB_X owned indirectly through their interests in PRS_X are individual foreign branch separate units. Pursuant to §1.1503(b)-1(b)(4)(ii), these individual separate units are combined and treated as a single separate unit of the consolidated group of which P is the parent. Unless an exception under §1.1503(d)-6 applies, any dual consolidated loss attributable to FB_X cannot offset income of P or S (other than income attributable to FB_X, subject to the application of §1.1503(d)-4(c)), including their distributive share of the U.S. source income earned through their interests in PRS_X, nor can it offset income of any other domestic affiliates.