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Release Date: 12/19/2008

From:
Sent: October 16, 2008
To:
Cc:
Subject: Branch Profits Tax Reg

This is what I have found re election to reduce liabilities.

From
Sent: Tuesday, May 13, 2008 12:18 PM
To:
Subject: RE: Branch Profits Tax Reg

It appears that the reg language is like a reverse cap on the DEA. It looks to the lesser of the election prior to the year of termination or the accumulated E&P that resulted from an election in a previous year. The reason the reference is to the prior year election, is that if the E&P is not reinvested under the prior year election, then as of the prior year it is either treated as distributed or treated as reinvested as a result of an asset increase. This means that i a prior year reinvestment can be cleansed by asset increases in subsequent years prior to a complete termination. This makes sense because other events such as subsequent year deficits can wipe out the accumulated E&P as well. [redacted] Otherwise, I think a general asset expansion in a subsequent year prior to a year of liquidation is sufficient, especially since the liability reduced base has to be made up in each subsequent year or else an additional liability reduction has to be made from year to year to cover the original accumulation resulting from the original election. I can call on this if you need me to.