



Alternative facts for Example 2 - The facts are the same as in paragraph (i) of Example 2, except that P's Country X business operations constitute a foreign branch as defined in §1.367(a)-6T(g)(1), but do not constitute a permanent establishment under the U.S.-Country X income tax convention. Although the activities carried on by P in Country X would otherwise constitute a foreign branch separate unit as described in §1.1503(d)-1(b)(4)(i)(A), the exception under §1.1503(d)-1(b)(4)(iii) applies because the activities do not constitute a permanent establishment under the U.S.-Country X income tax convention. Thus, the Country X business operations do not constitute a foreign branch separate unit, and the year 1 loss is not subject to the dual consolidated loss rules. If P instead carried on its Country X business operations through DE1x, then the exception under §1.1503(d)-1(b)(4)(iii) would not apply because P carries on the business operations through a hybrid entity and, as a result, the business operations would constitute a foreign branch separate unit. Thus, in such a case the year 1 loss would be subject to the dual consolidated loss rules.

