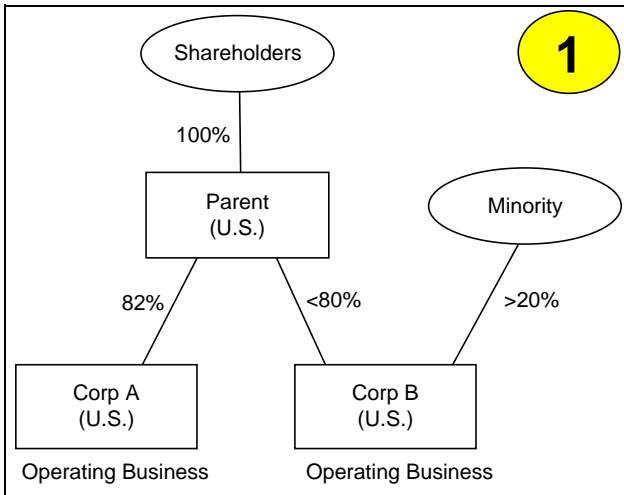
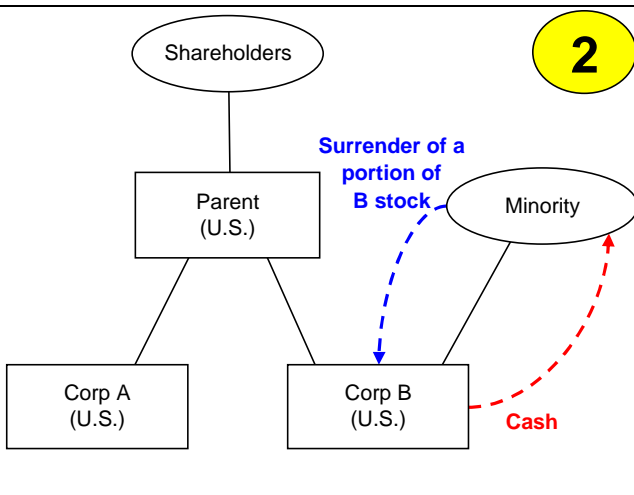


Tainted Spin-Off - Control Acquired Within 5 Years

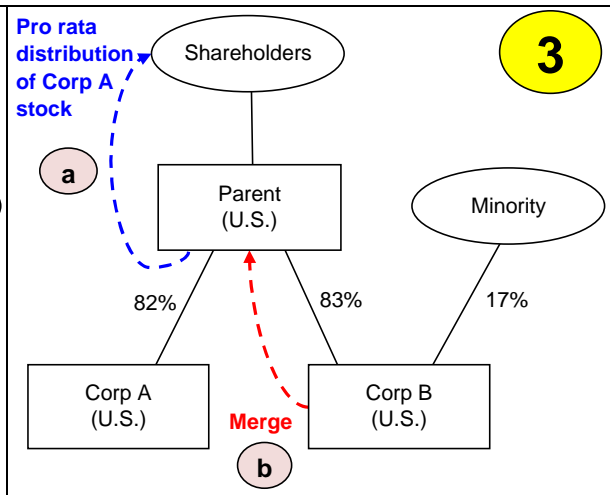
Initial Structure



Redemption



Spin-Off & Merger



A parent corporation qualifying as a personal holding company owned 82 percent and 83 percent of the capital stock of two operating subsidiaries, corporations A and B, respectively. In order to simplify the corporate structure and to eliminate the existence of the parent corporation as a personal holding company, the management of the parent corporation distributed pro rata the stock of corporation A to its (the parent's) stockholders. After the distribution of such stock, corporation B was merged with the parent corporation. The parent corporation obtained control (80 percent of the stock) of corporation B during the five-year period preceding the date of distribution as the result of the latter's redeeming a portion of the minority interest, which at that time exceeded 20 percent.

The ruling held that the distribution of corporation A's stock does not qualify as a tax-free "spin-off" transaction under section 355(a)(1), since after the distribution the parent corporation owned only the stock of corporation B, control of which was acquired in a taxable transaction less than five years prior to the date of the distribution. See section 355(b)(2)(D). The result would be the same whether the stock of Corporation A was distributed before or after the merger of corporation B into the parent corporation. Therefore, such distribution should be treated as a dividend, to the extent of the parent corporation's earning and profits available under sections 301 and 316.

Ending Point

