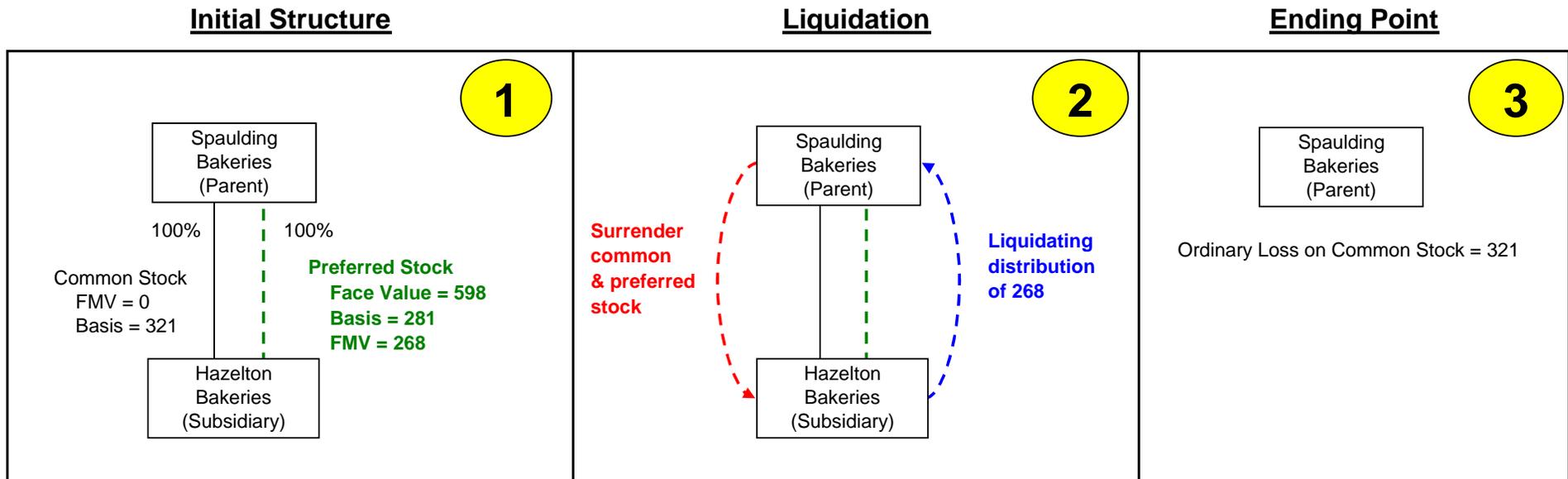


**Spaulding Bakeries, Inc.
v. Commissioner**
252 F.2d 693 (2d Cir. 1958)
(All amounts in thousands)

**Worthless Stock Deduction:
Liquidating Distribution Was Only
with Respect to Preferred Stock**

Copyright © 2006 Andrew Mitchel LLC
International Tax Services
www.andrewmitchel.com



Excerpt from the case:

[Spaulding] before the Tax Court, asserted that the Commissioner, in applying Section [332] had made no distinction between the preferred and the common stock. The Tax Court, in agreeing with [Spaulding] stated:

"Here there was no payment or distribution to the parent after the payment of the preferred stock claim in liquidation. The preferred stock claim captured all of the assets. There was nothing left to distribute to the parent as a common stockholder in the subsidiary. We hold the parent received no distribution in liquidation on its common stock within the intendment of the statute. Petitioner merely received in liquidation, payment of a part of its preferred stock claim--a fact which the statute, in effect, states will be immaterial."

The two classes of stock of Hazleton cannot be treated as though they were but one class, nor can the distribution in respect to the preferred stock be treated as though it were a distribution by Hazleton in respect to all its stock, all classes. It is convincingly argued as a matter of law, that there could be no distribution in respect to the common stock until the prior claim of the preferred stock had been satisfied. . . .

The Tax Court pointed out that Section [332] has been repeatedly held inapplicable where the creditor receiving all the assets of a liquidating subsidiary, instead of being an outside party, is also the parent stockholder. In such case, and the subsidiary being insolvent, the available net assets are applied to discharge the obligation of the subsidiary to the parent, and where no assets remain after the obligations are satisfied, there is no distribution as required by Section [332].

[HUNDREDS of additional charts at www.andrewmitchel.com](http://www.andrewmitchel.com)