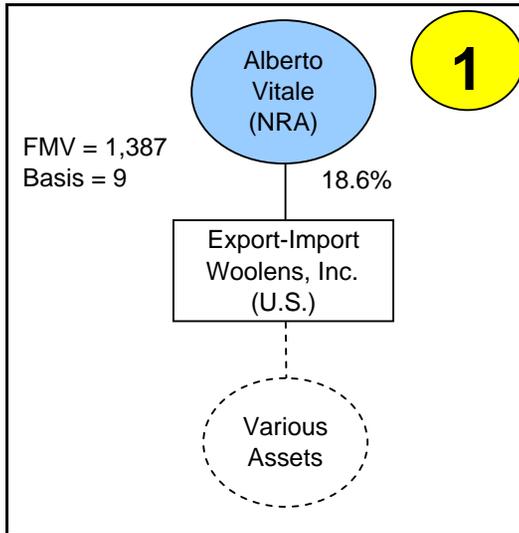


Vitale v. Commissioner
72 T.C. 386 (1979)

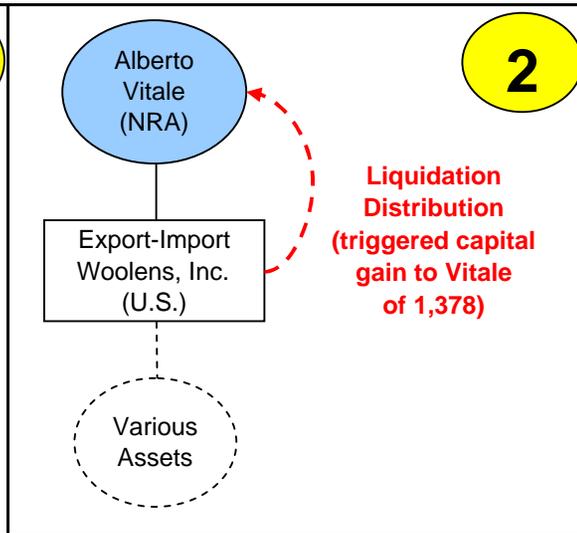
Partner in Limited Partnership
Engaged in U.S. Trade or Business

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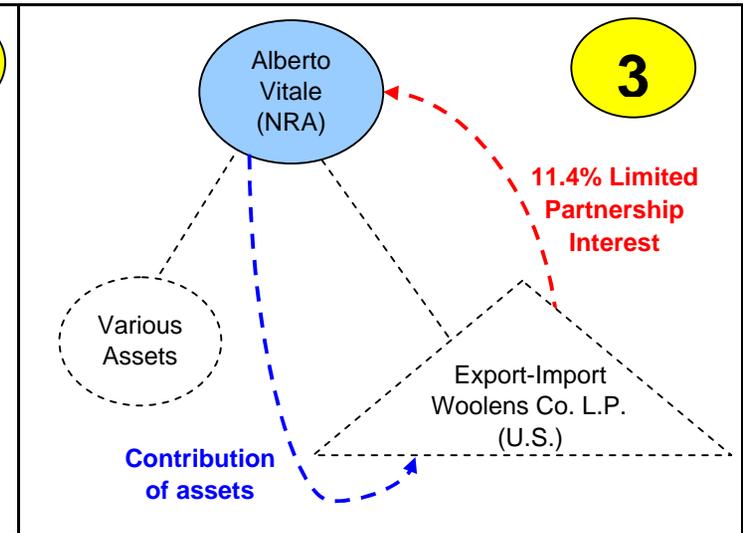
Initial Structure
(Beg. Of 1966)



Liquidation
(May 2, 1966)



Partnership Formation
(May 2, 1966)



During 1966, Vitale was an Italian national, resident in Switzerland. He was neither a citizen nor resident of the United States at any time. Vitale was a stockholder of Export-Import Woolens, Inc., a United States corporation engaged in the business of importing into and selling in the United States silks, woolens and other fabrics. Vitale owned 18.6 percent of the stock of the corporation. On May 2, 1966, Export-Import Woolens, Inc. distributed assets in liquidation to Vitale, having a value of \$1,387,584. Vitales's adjusted basis for his stock of the corporation was \$9,300 and he realized long-term capital gain on the liquidation of \$1,378,284.

On May 2, 1966, the former stockholders (together with certain employees) of the corporation formed Export-Import Woolens Company, a New York limited partnership, of which the Vitale became a limited partner with an 11.4 percent interest. Section 875 provides that a nonresident alien individual shall be considered as being engaged in a trade or business within the United States, if the partnership of which he is a member is so engaged. Accordingly, [under prior law] the gains realized by Vitale on the receipt of U.S. capital assets in liquidation of Export-Import Woolens Company (and gain on the subsequent sale) are taxable under section 871(c).

Ending Point

