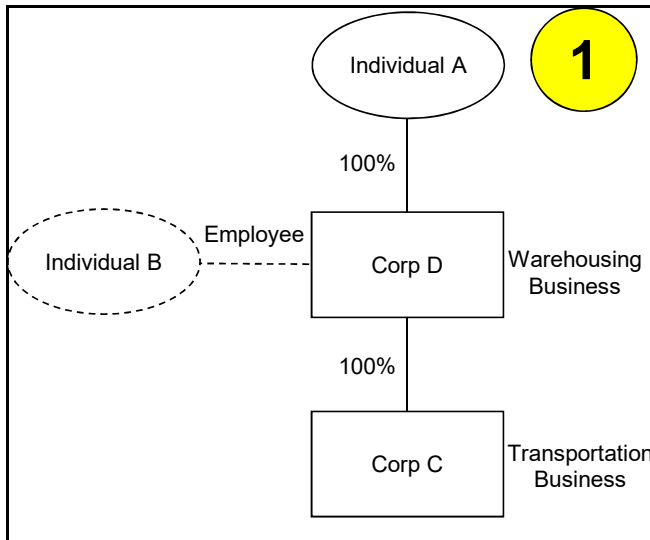


**Prop. Reg. 1.355-2(d)(4)  
Example 1**

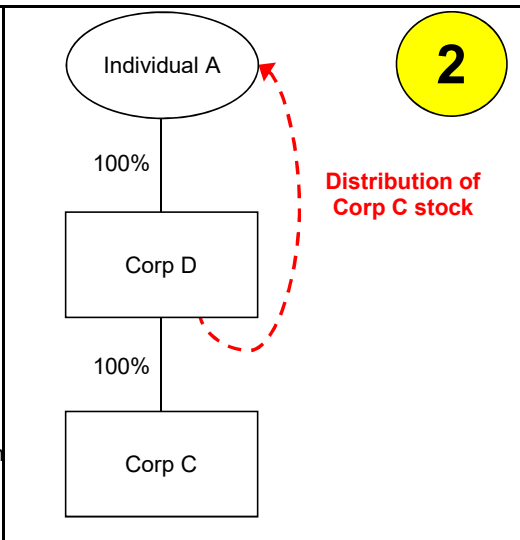
**Sale After Distribution (Device)**

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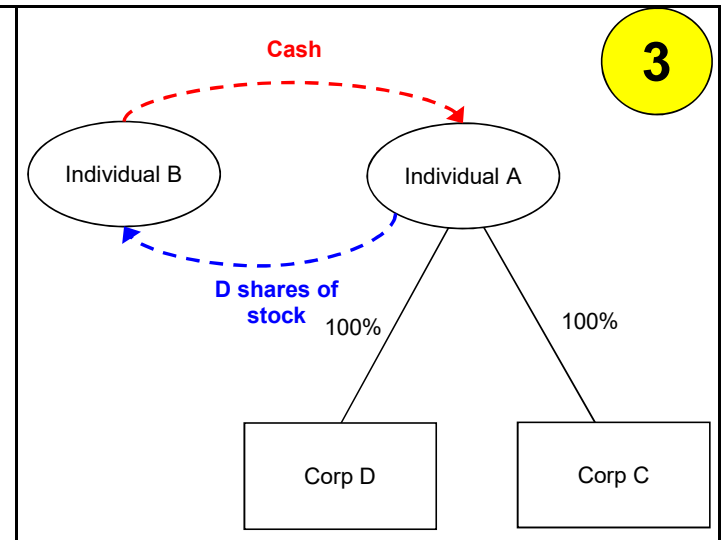
**Initial Structure**



**Purported Spin-Off**



**Sale of D Stock**



A owns all of the stock of D, which is engaged in the warehousing business. D owns all of the stock of C, which is engaged in the transportation business. All of D's and C's assets are Business Assets. D employs B, who is extremely knowledgeable of the warehousing business in general and the operations of D in particular. B has informed A that he will seriously consider leaving D if he is not given the opportunity to purchase a significant amount of stock of D. Because of his knowledge and experience, the loss of B would seriously damage the business of D. B cannot afford to purchase any significant amount of stock of D as long as D owns C. Accordingly, D distributes the stock of C to A and A subsequently sells a portion of his D stock to B. However, instead of A selling a portion of the D stock, D could have issued additional shares to B after the distribution. In light of the fact that D could have issued additional shares to B, the sale of D stock by A is substantial evidence of device. The transaction is considered to have been used principally as a device.

**Ending Point**

