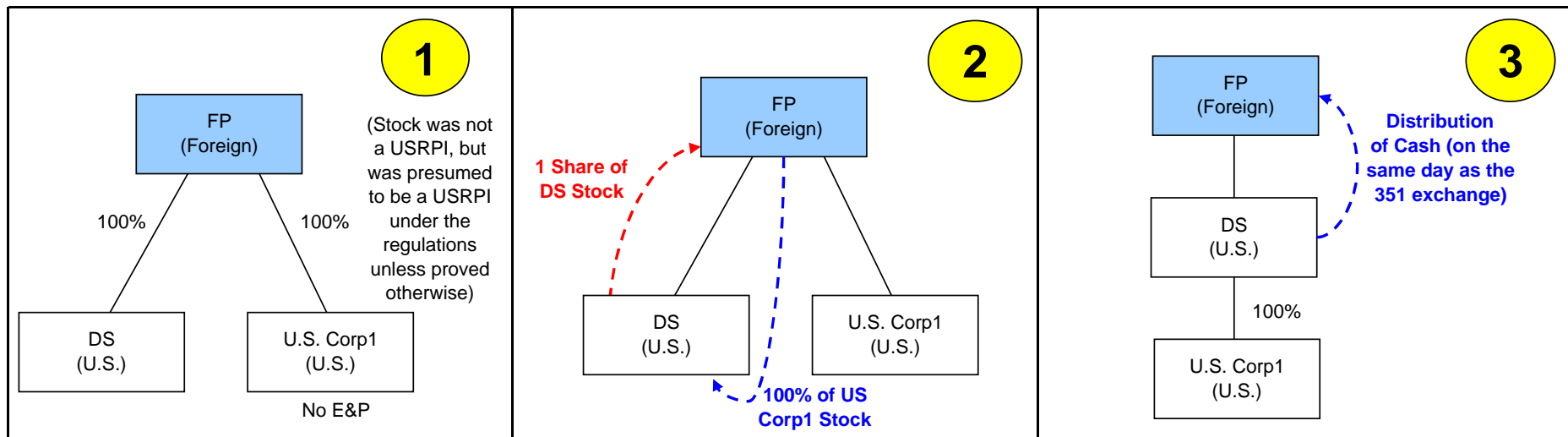


**Extension Granted for 897 Statement & Notice and 1445 Withholding Requirements in a 351 Exchange**

**Initial Structure**

**351 Exchange**

**Cash Distribution**



FP, a publicly listed foreign corporation, owned DS and US Corp1. Both DS and US Corp1 are domestic corporations. FP had purchased the shares of US Corp1, from an unrelated party for cash. In order that US Corp1 would be part of the DS affiliated group, FP contributed the shares of US Corp1 to DS in exchange for one share of DS and notes issued by DS. In addition, on the same day, DS distributed cash to FP. DS had current earnings and profits for the year of the sale. DS did not have any accumulated earnings and profits. US Corp1 had no current or accumulated earnings and profits for the year.

FP, DS, and US Corp1 claim that the DS acquisition of the stock of US Corp1 is an exchange governed by section 351, to the extent no consideration, other than the share of DS stock, was given for the stock of US Corp1. To the extent FP received notes issued by DS as consideration for the stock of US Corp1, FP, DS, and US Corp1 assert that the transaction is governed by section 304. Under section 304, the amount of the notes may be treated in part as a dividend to FP, and in part as a return of capital and capital gain. For federal income tax purposes, FP and DS claim that the cash distributed to FP by DS is a return of capital to the extent it exceeded distributions (if any) of DS's current earnings and profits, and to the extent of FP's basis in DS. Section 301(c)(2). Although FP claims that neither DS nor US Corp1 was a US Real Property Holding Corporation ("USRPHC") any time during the five year period ending with the date of the transactions, FP did not request statements pursuant to Treas. Reg. § 1.897-2(g) from US Corp1 and DS that US Corp1 and DS were not USRPHCs. Accordingly, neither US Corp1 nor DS provided statements to FP that they were not USRPHCs, and that withholding was not required.

Pursuant to Treas. Reg. § 301.9100-1 and Treas. Reg. § 301.9100-3, FP, US Corp1 and DS were granted an extension of time until 60 days from the date of the ruling letter to satisfy the statement, notice and withholding requirements of Treas. Reg. §§ 1.897-2(g), 1.897-2(h), and 1.1445-2(c)(3) with respect to the distribution.

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