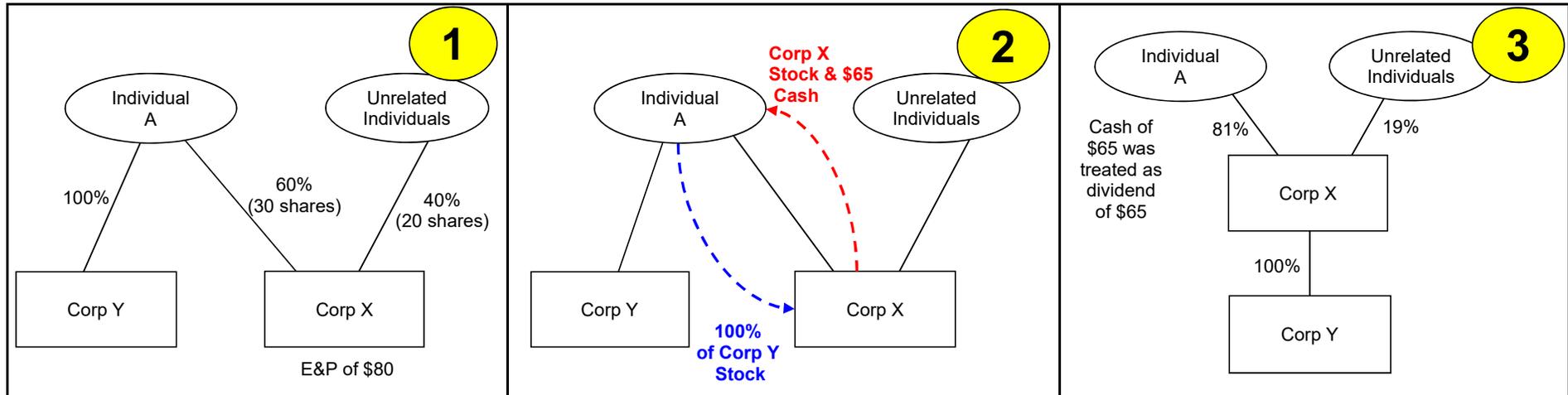


Initial Structure

Stock Acquisition

Ending Point



The ruling held that the Internal Revenue Service will not follow the decision of the United States Court of Appeals for the Sixth Circuit in *Estate of Haserot v. Commissioner*, 399 F.2d 828 (1968). On facts similar to those in the example set forth below, the court held that when section 351 applies to an acquisition also described in section 304(a)(1) the transaction will be governed by section 351.

Corporation X and corporation Y have been engaged in business for many years and have only voting common stock outstanding. A, an individual, owned all of the outstanding Y stock. The Y stock in the hands of A was a capital asset, within the meaning of section 1221. Of the 50 shares of X common stock that were outstanding, A owned 30 shares (60 percent of the outstanding stock) and unrelated individuals owned 20 shares. Pursuant to a plan, X, for good business reasons, acquired all of the Y stock owned by A in exchange for sufficient X stock so that after the transaction A owned approximately 81 percent of the outstanding X stock. In addition, A received 65x dollars in cash. A realized a gain of 40x dollars as a result of the transaction. The remaining 19 percent of X stock was owned by individuals unrelated to A. At the time of the transaction X had earnings and profits of 80x dollars.

In 1982, section 304(b)(3) was added to provide that section 304 will generally take precedence if the transaction would also qualify as a section 351 exchange.