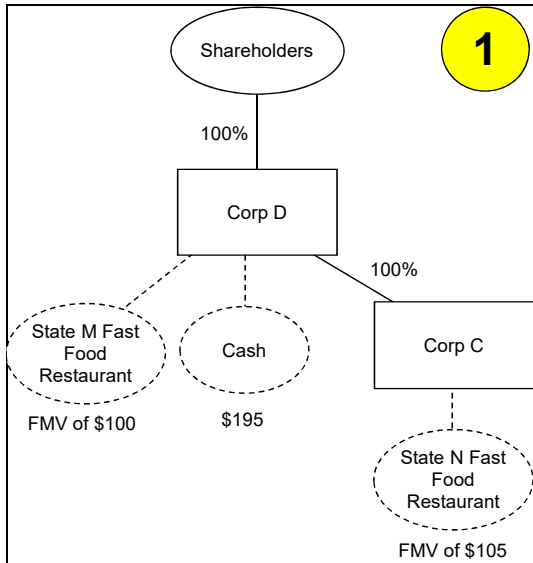
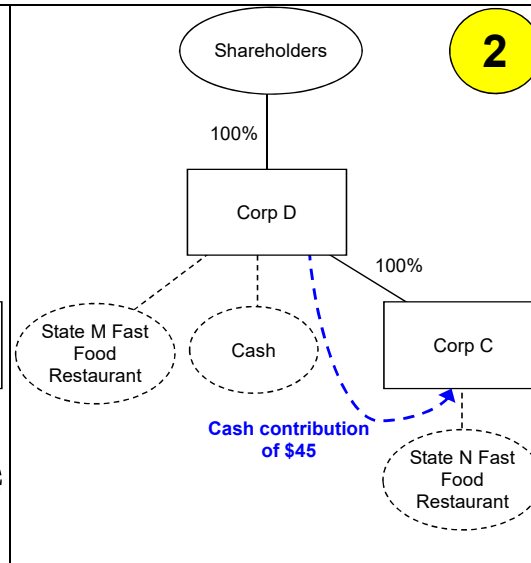


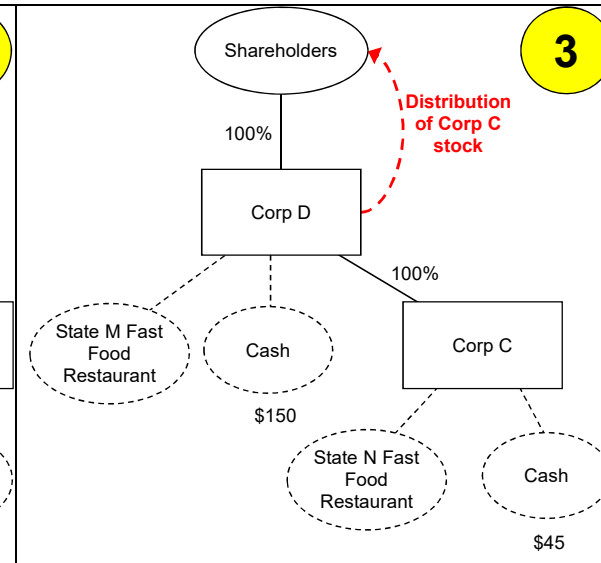
Initial Structure



Cash Contribution



Purported Spin-Off



D owns and operates a fast food restaurant in State M and owns all of the stock of C, which owns and operates a fast food restaurant in State N. The value of the Business Assets of D's and C's fast food restaurants are \$100 and \$105, respectively. D also has \$195 cash which D holds as a Nonbusiness Asset. D and C operate their businesses under franchises granted by competing businesses F and G, respectively. G has recently changed its franchise policy and will no longer grant or renew franchises to subsidiaries or other members of the same affiliated group of corporations operating businesses under franchises granted by its competitors. Thus, C will lose its franchise if it remains a subsidiary of D. The franchise is about to expire. The lease for the State M location will expire in 24 months, and D will be forced to relocate at that time. While D has not made any plans, it is weighing its option to purchase a building for the relocation. D contributes \$45 to C, which C will retain, and distributes the stock of C pro rata among D's shareholders.

After the distribution, D's Nonbusiness Asset Percentage is 60 percent (\$150/\$250), and C's Nonbusiness Asset Percentage is 30 percent (\$45/\$150). D's and C's ownership of Nonbusiness Assets of at least 20 percent of their respective Total Assets is evidence of device with respect to each. The difference between D's Nonbusiness Asset Percentage and C's Nonbusiness Asset Percentage is 30 percentage points, which is also evidence of device. The corporate business purpose for the distribution does not relate to a separation of Nonbusiness Assets from one or more Businesses or Business Assets and is evidence of nondevice. However, D has no corporate business purpose for the difference of Nonbusiness Asset Percentages. While D is considering purchasing a building for use in the State M location, this purchase is not required by any exigency. The fact that the distribution is pro rata is also evidence of device. Based on all the facts and circumstances, the transaction is considered to have been used principally as a device.

Ending Point

