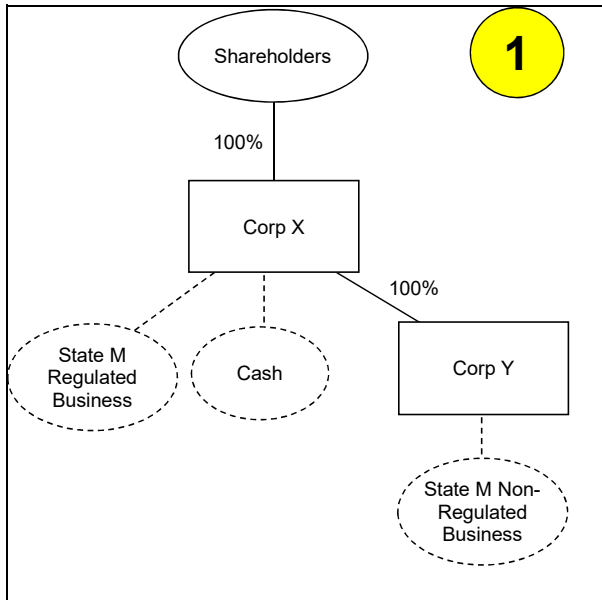
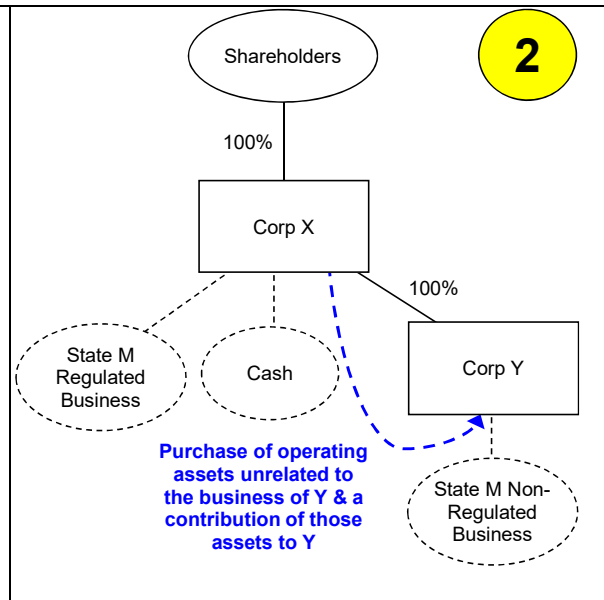


**Disproportionate Division of (Non-Cash)
Nonbusiness Assets (Device)**

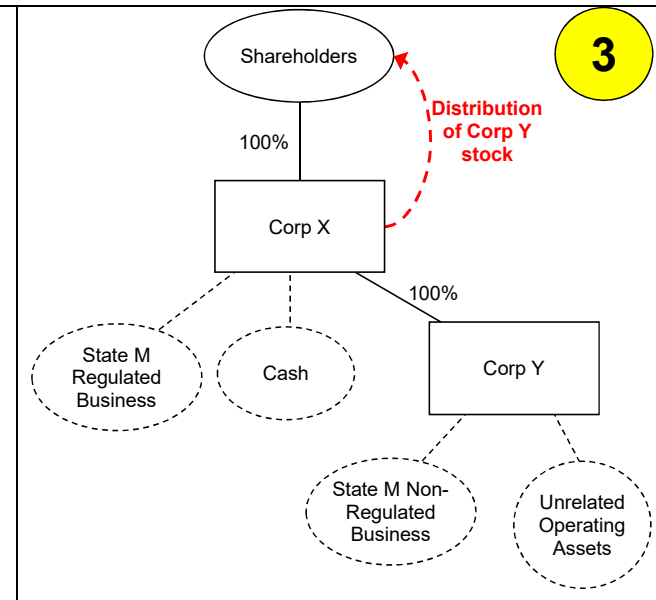
Initial Structure



Purchase & Contribution



Purported Spin-Off



Corporation X is engaged in a regulated business in State M and owns all of the stock of corporation Y, which is not engaged in a regulated business in State M. State M has recently amended its laws to provide that affiliated corporations operating in M may not conduct both regulated and unregulated businesses. X holds cash that is not related to the reasonable needs of the business of X or Y to Y. X uses the cash to purchase operating assets unrelated to the business of Y. X then contributes the purchased assets to Y and distributes the stock of Y pro rata among X's shareholders. As a result of the transfer of the assets, the ratio of the value of its assets not used in a trade or business that satisfies the requirements of section 355(b) to the value of its business is substantially greater for Y than for X. There is no other evidence of device or evidence of nondevice. The transfer of assets by X to Y is relatively strong evidence of device because after the transfer Y holds disproportionately many assets that are not used in a trade or business that satisfies the requirements of section 355(b). The fact that the distribution is pro rata is evidence of device. The strong business purpose is relatively strong evidence of nondevice, but it does not pertain to the transfer. Accordingly, the transaction is considered to have been used principally as a device. See Reg. 1.355-2(d)(1), (d)(2)(ii), (iv)(A) and (B), and (d)(3)(i) and (ii).

Ending Point

