

**Prop. Reg. 1.367(d)-1(f)(6)(ii)(A),  
Example 1**

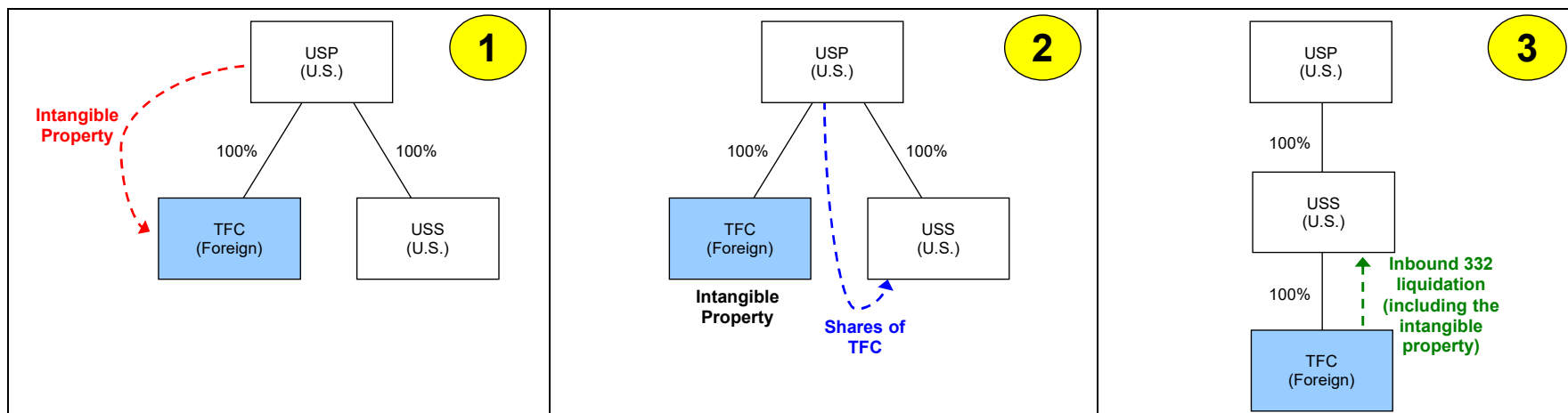
**Repatriation of Intangibles  
Via Section 332 Liquidation**

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**Year 1 - Outbound 351 Exchange**

**Year 2 - 351 Exchange of Stock**

**Year 3 - Inbound 332 Liquidation**



USP and USS are domestic corporations that each use a calendar taxable year. TFC is a foreign corporation whose functional currency is the U.S. dollar. In year 1, USP transfers intangible property, as defined in section 367(d)(4), with a \$0 adjusted basis, to TFC in a section 351 exchange (the “transferred IP”), and such transfer is subject to section 367(d). Each annual inclusion (including any amount described in Reg. 1.367(d)-1T(f)(1)(ii)) is taken into account under section 367(d)(2)(A)(ii)(I) and Reg. 1.367(d)-1T(c)(1). Any subsequent transfer or disposition of stock of TFC or the transferred IP occurs within the useful life of the transferred IP. All transactions are respected under general principles of tax law.

In year 2, USP transfers all the stock of TFC to USS, a related person within the meaning of Reg. 1.367(d)-1T(h) and Reg. 1.367(d)-1(h)(2)(ii), in a section 351 exchange to which Reg. 1.367(d)-1T(e)(1) applies (the “year 2 transfer”). In year 3, TFC distributes all its property (including the transferred IP) to USS pursuant to a complete liquidation to which sections 332 and 337 apply (the “year 3 liquidation”). The all earnings and profits amount determined under Reg. 1.367(b)-2(d) with respect to the stock of TFC held by USS is \$0. The information described in Reg. 1.6038B-1(d)(2) is provided by USS for the taxable year in which the year 3 liquidation occurs.

The year 2 transfer. Because the year 2 transfer involves a transfer of all the stock of TFC by USP (the initial U.S. transferor) to a related U.S. person (USS), under Reg. 1.367(d)-1T(e)(1)(i) USS (a successor U.S. transferor) is treated as receiving the right to receive a proportionate share of the contingent annual payments that USP would have otherwise taken into account under Reg. 1.367(d)-1T(c). As determined under Reg. 1.367(d)-1T(e)(4), USS’s proportionate share of such payments is 100 percent. Accordingly, USS will annually include in its gross income the full amount of each of the annual payments that USP would otherwise have taken into account under Reg. 1.367(d)-1T(c) over the useful life of the transferred IP, and USP will not recognize any gain upon the year 2 transfer. See Reg. 1.367(d)-1T(e)(1)(ii) and (iii).

The year 3 liquidation. The year 3 liquidation results in a subsequent disposition of the transferred IP to USS. USS, a U.S. person treated as the U.S. transferor pursuant to Reg. 1.367(d)-1T(e)(1), is a qualified domestic person within the meaning of Reg. 1.367(d)-1(f)(4)(iii). Pursuant to Reg. 1.367(d)-1(f)(4)(i)(A), USS must recognize the amount of gain described in Reg. 1.367(d)-1(f)(4)(ii). Because the year 3 liquidation is a complete liquidation to which sections 332 and 337 apply, the intangible property is transferred basis property (as defined in section 7701(a)(43) and determined without regard to section 367(d), this section, and Reg. 1.367(d)-1T), and therefore Reg. 1.367(d)-1(f)(4)(ii)(A) applies to determine the amount of any gain USS must recognize. Because TFC does not recognize gain with respect to the transferred IP (regardless of the adjusted basis in the intangible property) by reason of the year 3 liquidation, the amount of gain described in Reg. 1.367(d)-1(f)(4)(ii)(A) is \$0. Accordingly, USS does not recognize gain pursuant to Reg. 1.367(d)-1(f)(4)(i)(A) by reason of the year 3 liquidation. Additionally, because USS provides the information described in Reg. 1.6038B-1(d)(2), Reg. 1.367(d)-1(f)(4)(i)(B) applies to the year 3 liquidation. USS therefore recognizes a deemed payment representing the part of USS’s taxable year during which TFC held the transferred IP pursuant to Reg. 1.367(d)-1(f)(4)(i)(B)(1), and the required adjustments described in Reg. 1.367(d)-1(c)(2)(ii) and Reg. 1.367(d)-1T(c)(2)(i) apply as to the deemed payment. Also, because USS does not recognize gain pursuant to Reg. 1.367(d)-1(f)(4)(i)(A), the required adjustments described in Reg. 1.367(d)-1(f)(2) do not apply. Pursuant to Reg. 1.367(d)-1(f)(4)(i)(B)(2), after taking the deemed payment into account, the transferred IP is no longer subject to section 367(d), this section, and Reg. 1.367(d)-1T. Finally, pursuant to Reg. 1.367(d)-1(f)(4)(iv)(A), USS’s adjusted basis in the transferred IP is \$0, which is equal to USP’s former adjusted basis in the transferred IP (\$0), increased by the greater of the amount of gain recognized by USS under Reg. 1.367(d)-1(f)(4)(i)(A) (\$0) or the amount of gain recognized by TFC upon the year 3 distribution (\$0).