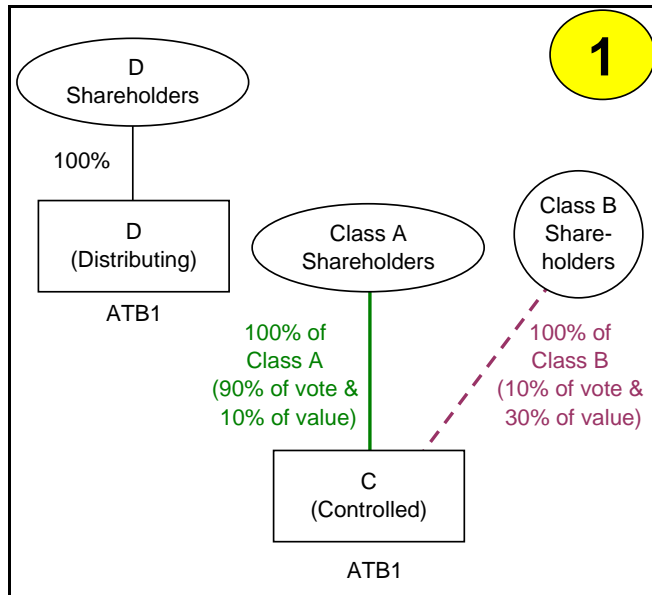
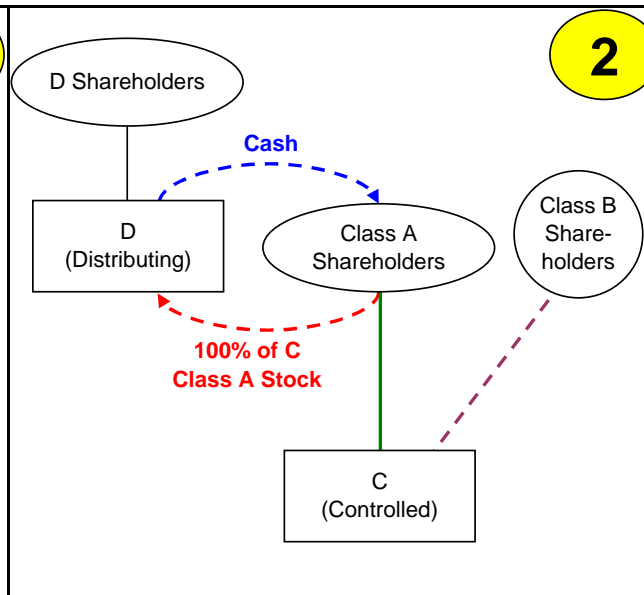


No Expansion - Acquiring Only 368(c) Control

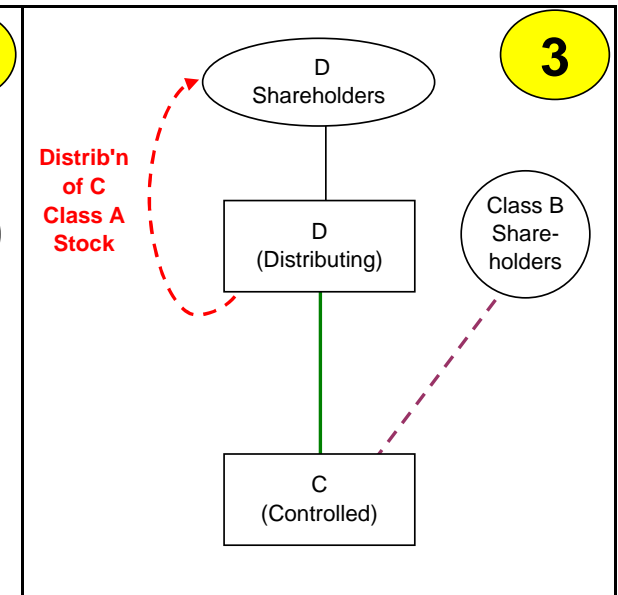
Initial Structure



Purchase of C Stock (Year 6)



Spin-Off (Year 8)



For more than five years, D and unrelated C have engaged in the active conduct of ATB1. In year 6, D purchases section 368(c) stock but not section 1504(a)(2) stock of C. [For example, C's Class A shareholders have 90% of the total combined voting power of all classes of C stock entitled to vote. C's Class B shareholders have 10% of the total combined voting power of all classes of C stock entitled to vote. However, the Class B shareholders have dividend and liquidation rights which make the Class B shares have a value equal to 30% of the total value of all the stock of C.]

In year 8, D distributes the C Class A stock to the D shareholders. While D and C are in the same line of business, the acquisition does not result in an expansion of D's business because D is not treated as having acquired C's assets (and activities). Accordingly, D has acquired control of C in violation of section 355(b)(2)(D). However, if D acquires additional C stock thereby causing C to become a DSAG member, D would be treated as having acquired C's assets (and activities) and the acquisition would constitute an expansion of ATB1. In such a case, D and C both would satisfy the requirements of section 355(b).

Ending Point

