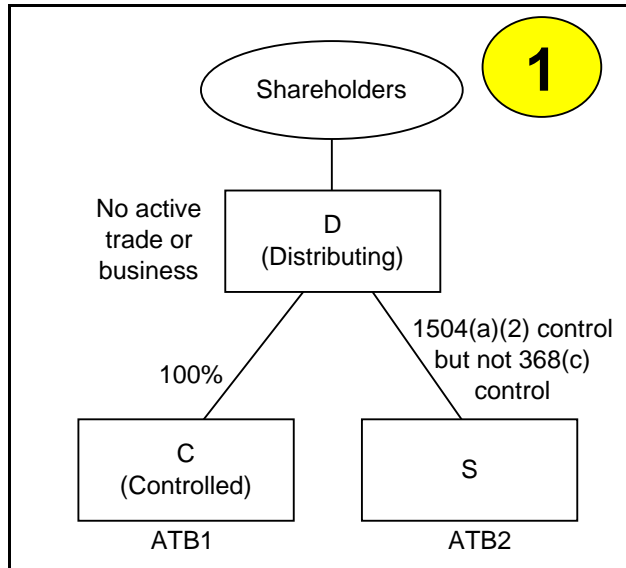
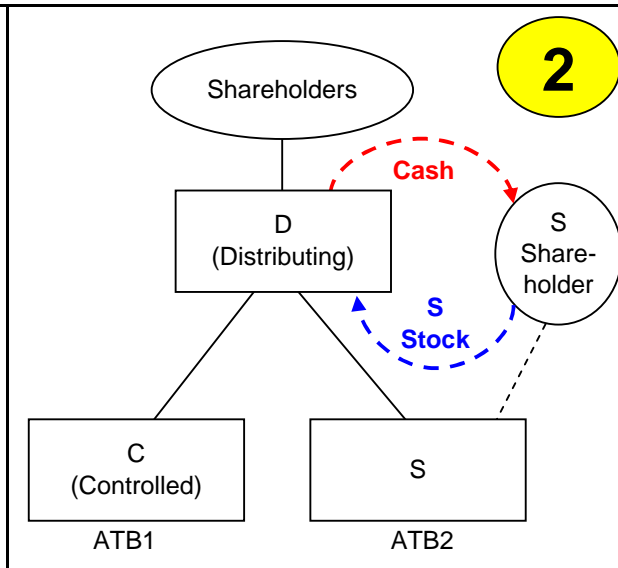


Spin-Off - DSAG Member Acquisition of 368(c) Control

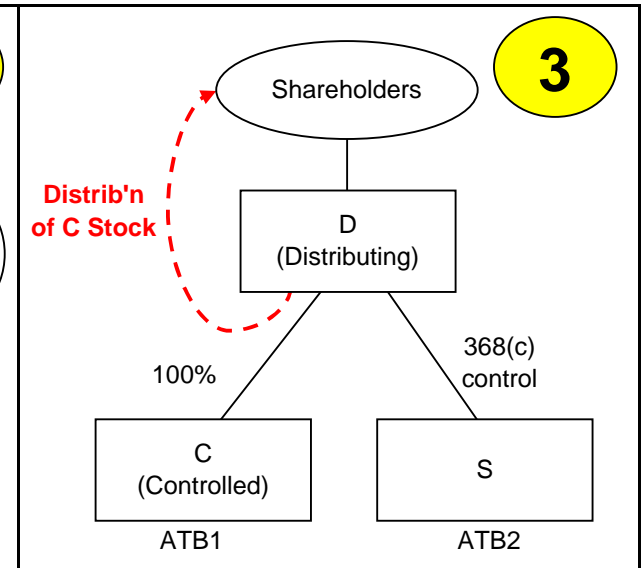
Initial Structure



Acq'n of 368(c) Control (Yr 6)



Spin-Off (Yr 8)



For more than five years, D has owned 100% of C stock and D has owned section 1504(a)(2) stock [but not section 368(c) stock] of S. Throughout this period, C and S have engaged in the active conduct of ATB1 and ATB2, respectively. In year 6, D acquires the remaining S stock. In year 8, D distributes the C stock to the D shareholders. Because D owns section 1504(a)(2) stock of S prior to year 6, S is a DSAG member (distributing separate affiliated group member) for the entire period. D and S are treated as one corporation for purposes of determining whether D is engaged in an active trade or business. D's acquisition of the remaining S stock in year 6 has no effect for purposes of determining whether D satisfies the requirements of section 355(b)(2)(C) because the DSAG is already engaged in the active conduct of ATB2. Section 355(b)(2)(D) does not apply to D's acquisition of S stock. Therefore, D is engaged in the active conduct of ATB2 both throughout the pre-distribution period and immediately after the distribution. Accordingly, D and C both satisfy the requirements of section 355(b).

Ending Point

