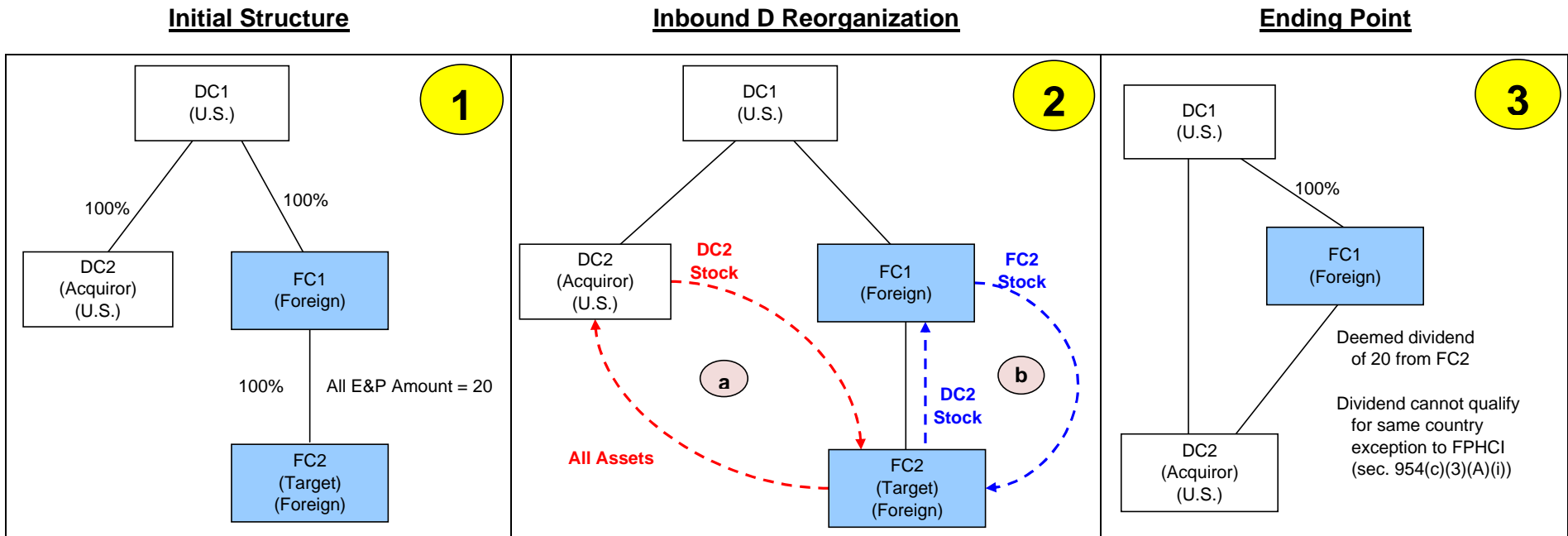


Reg. 1.367(b)-3(b)(3)(ii), [Old] Example 5

On January 23, 2006, the section 367 regulations were amended to allow for cross-border section 368(a)(1)(A) mergers. With these regulations, example 5 was amended. The example shown on this chart is the example included in the predecessor regulations.

Lower Tier CFC Inbound D Reorganization

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DC1, a domestic corporation, owns all of the outstanding stock of DC2, a domestic corporation. DC1 also owns all the outstanding stock of FC1, a foreign corporation. FC1 owns all of the outstanding stock of FC2, a foreign corporation. The all earnings and profits amount with respect to the FC2 stock owned by FC1 is \$20. In a reorganization described in section 368(a)(1)(D), DC2 acquires all of the assets and liabilities of FC2 in an exchange for DC2 stock. FC2 distributes the DC2 stock to FC1, and the FC2 stock held by FC1 is canceled.

FC1 must include \$20 in income as a deemed dividend from FC2. The deemed dividend is treated as a dividend for purposes of the Internal Revenue Code. However, the deemed dividend cannot qualify for the exception from foreign personal holding company income (FPHCI) provided by section 954(c)(3)(A)(i), even if the provisions of that section would otherwise have been met in the case of an actual dividend.