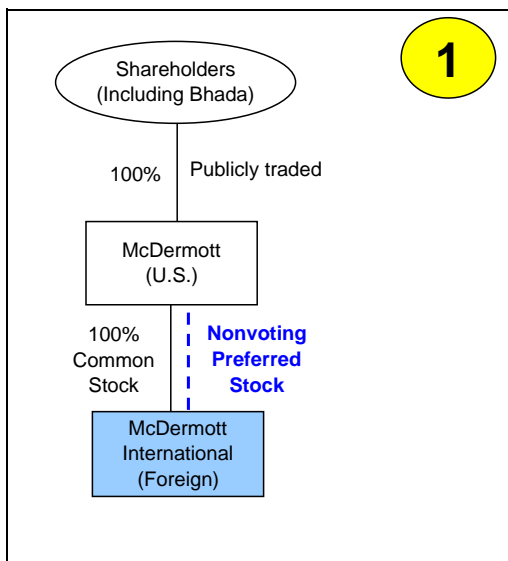
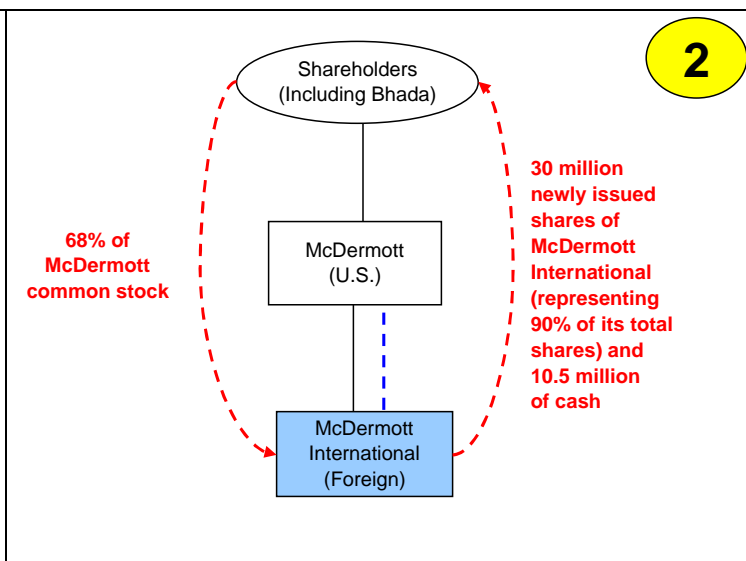


**Inversion Was Not a 304 Transaction  
 (Busted 351 Exchange)**

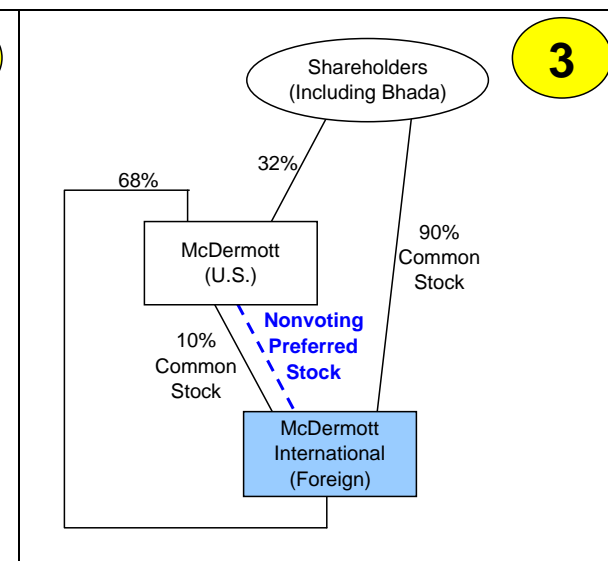
**Initial Structure**



**Transfers**



**Ending Point**



The transfer of the McDermott stock to McDermott International ("International") was designed to avoid nonrecognition treatment under section 351. Although the former McDermott shareholders owned 90% of the total voting power of International after the exchange, they did not own at least 80% of the total of all other classes of stock of International. McDermott owned all of the shares of a class of nonvoting preferred stock of International. Because the exchange was taxable, many shareholders recognized losses.

The IRS argued that the issuance of stock by McDermott International should be considered property for purposes of section 304. The Tax Court and the Fifth and Sixth Circuits rejected this argument.

After the transaction, International was no longer a controlled foreign corporation (CFC). As a result, International was able to avoid future Subpart F income tax costs, an estimated future tax savings of \$220 million. In addition, International's earnings were no longer subject to section 1248.

In 1984 Congress added section 1248(i) to the Code. Section 1248(i) requires a domestic corporate shareholder ("DCS") of a CFC to recognize gain equal to the section 1248 amount if a shareholder of the DCS exchanges stock of the DCS for stock of a foreign corporation.

**Ending Point Showing Entities Inverted**

