

**McWilliams v. Commissioner**  
**331 U.S. 694 (1947)**

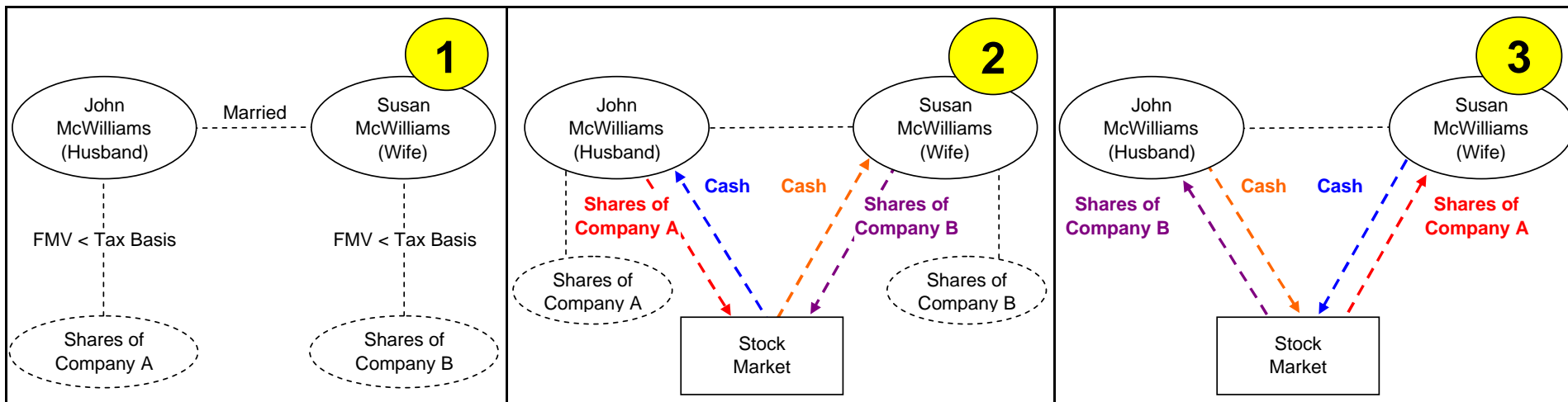
**Losses Disallowed for  
 Related-Party Sales  
 Thru Intermediary**

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**Initial Structure**

**Sales**

**Purchases**



The Supreme Court in *McWilliams* was faced with a situation where title had changed hands through an intermediate party. In fact, in *McWilliams* the parties did not get the same identical stock certificates as were sold.

The taxpayers sought to deduct losses incurred when stocks were sold on the open market. John McWilliams had for a number of years managed the estate of his wife. On several occasions he had ordered his broker to sell certain shares of stock owned by either him or his wife, and to buy the same number of shares of the identical stock for the other. The Commissioner disallowed for tax purposes the resulting losses.

The predecessor to section 267 states an absolute prohibition--not a presumption--against the allowance of losses on any sales between members of certain designated groups (section 24(b)). The one common characteristic of these groups is that their members, although distinct legal entities, generally have a near identity of economic interest.

We conclude that the purpose of Section 24(b) was to put an end to the right of taxpayers to choose, by intra-family transfers and other designated devices, their own time for realizing tax losses on investments which, for most practical purposes are continued uninterrupted. We are clear as to this purpose, too, that its effectuation obviously had to be made independent of the manner in which an intragroup transfer was accomplished.

**Ending Point**

