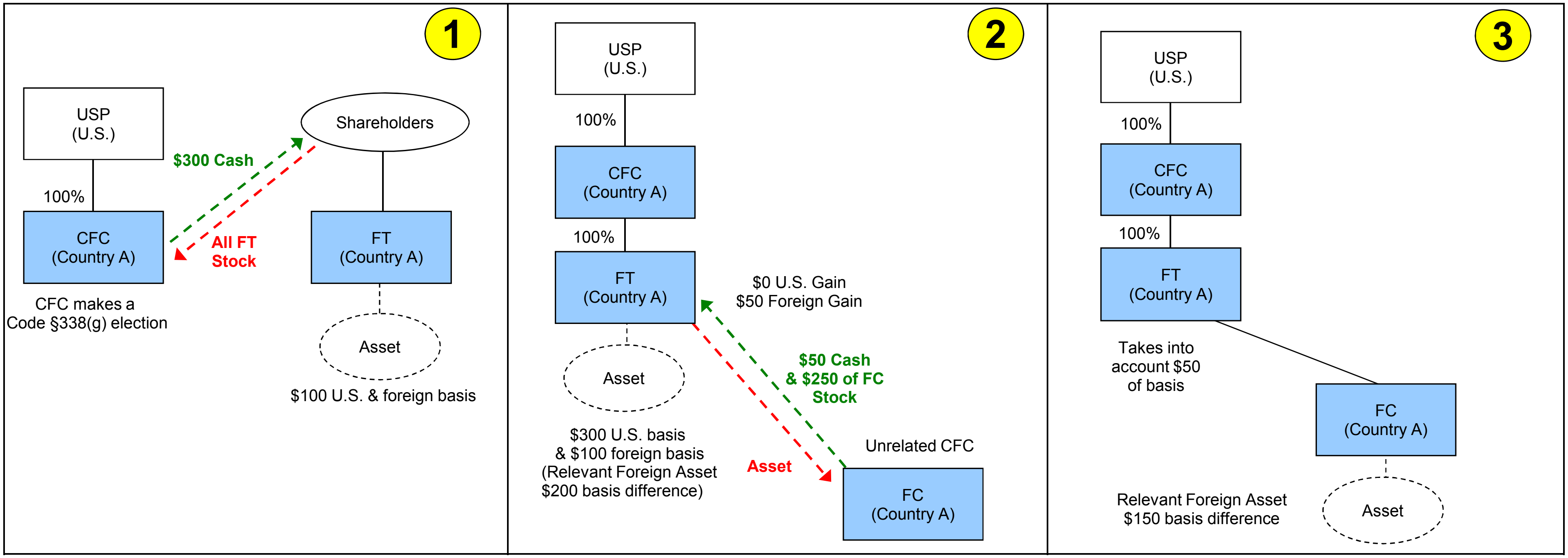
Notice 2014-44, Example 2

Impact of Code §901(m) on a Qualified Stock Purchase with a 338(g) Election, Followed by a Contribution with Boot

Qualified Stock Purchase | **Contribution of Asset for Shares & Cash** | **Ending Point**



USP, a domestic corporation, wholly owns CFC, a foreign corporation organized under the laws of Country A. FT is an unrelated foreign corporation organized under the laws of Country A and subject to Country A income tax. FT owns one asset (Asset), a parcel of land. On January 1, Year 1, CFC acquires all the stock of FT in exchange for $300 (Acquisition) in a qualified stock purchase for which an election under Code §338(g) is made. The Acquisition is treated as an asset acquisition for U.S. income tax purposes and as a stock acquisition for Country A income tax purposes. Immediately before the Acquisition, Asset had a U.S. Basis and Foreign Basis of $100. On March 1, Year 1, FT transfers Asset (worth $300 and U.S. Basis of $300) to FC (Transfer), an unrelated controlled foreign corporation organized under the laws of Country A, in exchange for stock of FC worth $250 and $50 of cash. The Transfer results in gain of $50 recognized for Country A income tax purposes. Although the Transfer is a taxable transaction for U.S. income tax purposes, no gain or loss is recognized for U.S. income tax purposes because the amount realized and the U.S. Basis are the same amount.

Because the transfer results in gain being recognized by FT with respect to Asset for Country A income tax purposes, there is a disposition of Asset for purposes of Code §901(m). Accordingly, FT takes into account the portion of the basis difference with respect to Asset equal to the Disposition Amount of $50 (the lesser of the Foreign Disposition Gain of $50 or the Unallocated Basis Difference of $200). Code §901(m) will continue to apply to Asset, as held by FC, until the remaining $150 basis difference ($200 – $50) has been taken into account under Code §901(m)(3)(B).