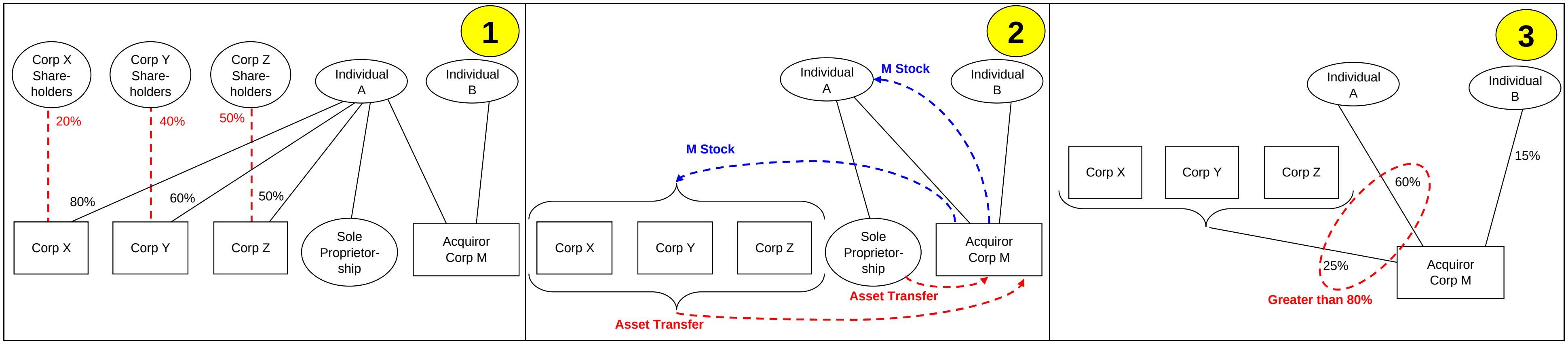
Revenue Ruling 68-357

Section 351 Exchange Combined with C Reorganizations

Initial Structure | **Asset Transfers** | **Test for Control**



All entities were engaged in similar businesses. In order to consolidate the operations of the five businesses, A transferred to corporation M all of the assets, subject to the liabilities, of his sole proprietorship. Simultaneously, pursuant to an agreement among the parties, corporations X, Y, and Z transferred to corporation M all of their assets, subject to their liabilities, in transactions that qualified as reorganizations under section 368(a)(1)(C). All of the assets were transferred in exchange solely for voting stock of M corporation issued to each transferor in proportion to the fair market value of the net assets transferred. Corporations X, Y, and Z distributed the stock of M received in the exchange to their respective shareholders and dissolved. Immediately after the transfer A owned sixty percent and X, Y, and Z owned a total of twenty-five percent of the outstanding stock of corporation M. B continued to hold his stock of M which represented fifteen percent of the outstanding stock.

Section 351(a) provides, in general, for the nonrecognition of gain or loss on the transfer by one or more persons of property to a corporation solely in exchange for stock or securities in such corporation if, immediately after the exchange, such person or persons are in control of the corporation to which the property was transferred. Section 368(c) provides that the term "control" means the ownership of stock possessing at least eighty percent of the total combined voting power of all classes of stock entitled to vote and at least eighty percent of the total number of shares of all other classes of stock of the corporation. Section 351(c) provides the special rule that for purposes of section 351, the fact that any corporate transferor distributes part or all of the stock that it receives in the exchange to its shareholders will not be taken into account.

The exchanges of property by the transferor corporations and by A in his individual capacity solely for voting stock of M corporation, taken as a whole, represent a transaction within the provisions of section 351(a) inasmuch as the transferors are in control of M immediately after the exchanges within the meaning of section 368(c). Pursuant to section 351(c) the fact that corporations X, Y, and Z distributed the stock of M to their shareholders will not be taken into account. Despite the fact that the transactions are joined to an individual transfer of property, each transfer of assets by corporations X, Y, and Z and the acquisition of these assets by corporation M is a reorganization within the meaning of section 368(a)(1)(C). Therefore, the exchanges by the shareholders of X, Y, and Z of their stock of each of these corporations solely for voting stock of M corporation were made pursuant to the plan of reorganization in each case and thus such exchanges are within the provisions of section 354.

Ending Point