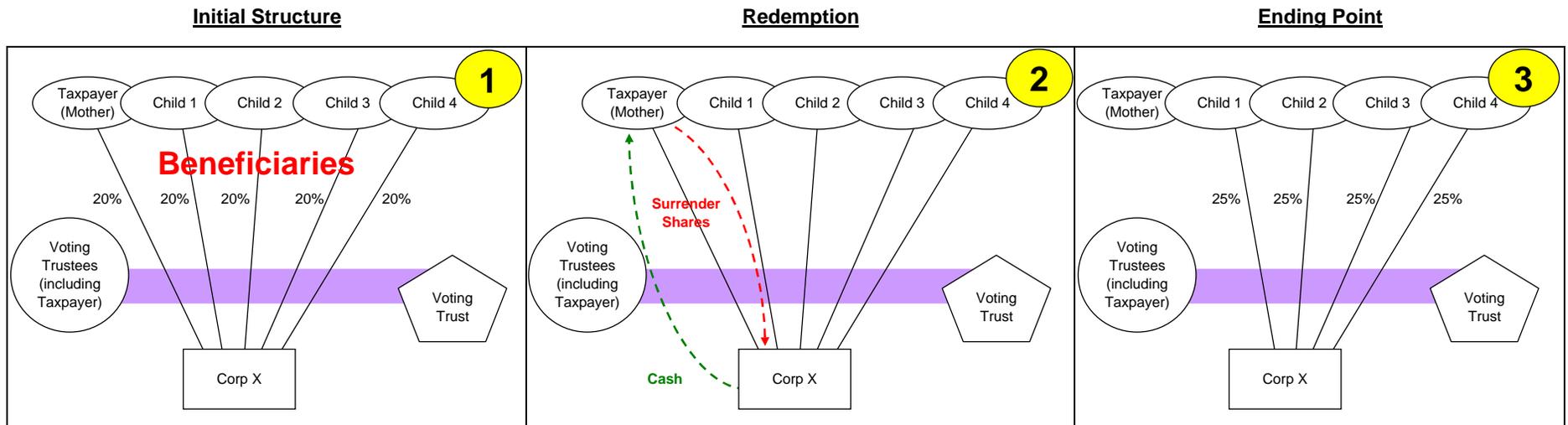


Voting Trustee is a Tainted Interest for 302(b)(3) Termination



Corp X proposes to redeem all of its stock owned by the taxpayer. Corp X is owned by the taxpayer and her four children (each owning 20 percent). The stock is held by a voting trust of which the taxpayer is one of the voting trustees. The voting trust will distribute the taxpayer's stock to her prior to the redemption, following which the taxpayer intends to remain as a voting trustee.

Under section 318(a)(1) the taxpayer is considered to own all of the stock owned by her four children. However, section 302(c)(2)(A)(i) provides that section 318(a)(1) will not apply to a distribution described in section 302(b)(3) if immediately after the distribution the distributee has no interest in the corporation (including an interest as officer, director or employee), other than an interest as a creditor. Therefore, in order to qualify the redemption as a complete redemption of all of the stock of the corporation owned by the taxpayer under section 302(b)(3) and thereby have the redemption treated as a distribution in full payment in exchange for stock under section 302(a), the taxpayer must have no interest in the corporation within the meaning of section 302(c)(2)(A)(i), immediately after the distribution. By remaining as a voting trustee, the taxpayer will continue to have an interest in the corporation by having the right to vote the stock which is held by the trust. Such a right is an interest in the corporation within the meaning of section 302(c)(2)(A)(i).

Therefore, if the taxpayer remains a voting trustee after the distribution in redemption of her stock, the constructive ownership rules of section 318(a)(1) will be applicable to the redemption and, consequently, she will be considered to own the stock of the corporation owned by her children. Since the taxpayer will be considered to own 100 percent of the stock of the corporation subsequent to such redemption, the distribution will be treated pursuant to section 302(d) as a distribution of property to which section 301 applies.