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1)Question 1Tax Free Reorg

Tax free reorg requires 1) fits into one of the seven types in 368a, 2) continuity of S/H interest (COSI), 3) continuity of business enterprise (COBE), and 4) business purpose.

Here, this asset sale does not qualify for a tax-free reorg b/c there is no continuity of S/H interest (COSI) since the Profco (P) is using all cash (and so none of its stock) to purchase Tipico(T)'s assets. If any of the S/Hs are interested in deferring their tax, P should pay for the purchase using P stock. P is a publicly traded company and COSI would still be met even if the S/Hs of T sold their P stock shortly after the reorg. However, this is not the case. Thus, this will not qualify as a tax free reorg.

Asset SaleAllocation of Purchase Price

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Asset sale requires that the total sale price must be allocated to each individual asset. If there is no allocation in K, they must use 338b. 338b Residual method of allocation starts with easy to value assets and what is left over goes to intangibles. Both parties must report allocation on a particular IRS for designed to make it easy for the IRS to compare.

Here, T can allow P to have no allocation in the K, but P will not be able to be more aggressive as to allocating more basis to inventory (deduction on sale) or intangibles (reasonable depreciation) as opposed to Greenacre (slow depreciation). Since the facts state the value of these items, they are presumably easy to value. P will still be able to modify the share of the purchase price to each item in the intangible, but this will only help P if P intends to sell some intangibles soon after the sale.

Profco

Here, P does not want any allocation in K, they must use 338b (as above). P's basis in the assets will be:

Greenacre basis = \$800K. There is no amortization for land.

Inventory basis = \$510K. Inventory has an immediate write-off when sold.

Intangibles basis = \$190K. Since each intangible is difficult to value, P will likely have some leeway in how it divided the basis to each intangible, and T should allow P to do so. However, T and P should specify how the IRS for will be filled out. Amortization for intangibles is a 15 year straight line depreciation.

There are immediate tax consequences to P with a purchase of assets.

Tipco

T is a C-corp and subject to double taxation. T must pay corporate tax on the asset sale.

Here, T's sale of the inventory will be regular income in the amount of Regular Gain = SalePrice - Basis. Presumably, the sale price will be the Fair Market Value (FMV). Inventory regular gain

2 = \$510,000 - \$300,000 = \$210,000.

T's sale of Greenacre will be a Capital Gain/Loss = SalePrice - Basis. Again, we should use

2 Sale Price of FMV. GreenAcre Capital Gain/Loss = \$800,000 - \$900,000 = \$100,000 capital loss.

T's sale of intangibles will be a Capital Gain/Loss = SalePrice - Basis. Again, we should use

2 Sale Price of FMV. Intangibles Capital Gain/Loss = \$190,000 - \$0 = \$190,000 capital gain.

1 Fortunately, we have a capital gain from the intangibles to offset the capital loss from

Greenacre. Total Gain for T = CapGain - CapLoss + Regular Gain - Regular Loss = \$190K - \$100K + \$210K = \$300K.

T income tax is 34% at this income rate, assuming we are not in the 35% bracket with income over \$10M. Thus, T tax = \$300K * 34% = \$102K.

2 T's E&P would disappear after the liquidation.

Complete Liquidation - Dawn, Eve, Farid

2 Distribution for complete liquidation is treated as a sale (331).

2 Here, Dawn, Eve, and Fariq will pay CapGain = Distribution - Basis because a complete liquidation is treated as a sale. They will each have a CapGain = \$400K - \$250K = \$150K.

Question 2

A. Formation of a Corporation