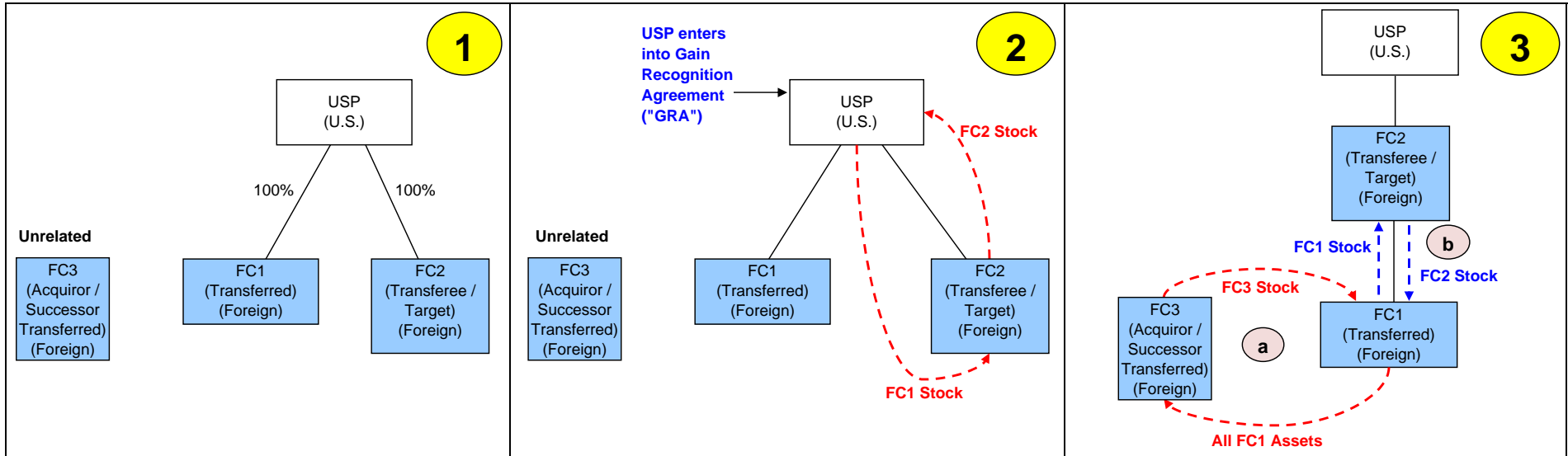


**Tax Free Reorganization Impact on Gain Recognition Agreement - Transferred**

**Initial Structure**

**Outbound 351 (Year 1)**

**C Reorganization (Year 4)**



In Year 1, USP transfers 100% of the stock of FC1 to FC2 in an outbound section 351 exchange and enters into a gain recognition agreement ("GRA"). In Year 4, in a reorganization described in section 368(a)(1)(C), FC1 transfers all of its assets to FC3, an unrelated foreign corporation, in exchange for FC3 stock. FC1 transfers the FC3 stock to FC2 in exchange for the FC1 stock held by FC2 and the FC1 stock is canceled.

The C reorganization will not trigger the GRA **IF**, in addition to complying with the reporting requirements, USP enters into a new GRA pursuant to which it agrees to recognize gain with respect to the transfer subject to the original GRA, substituting FC3 as the successor transferred corporation in place of FC1, treating FC3 as the original transferred corporation, and treating only the assets acquired by FC3 from FC1 pursuant to the section 368(a)(1)(C) reorganization as assets subject to the deemed disposition of stock rules under Treas. Reg. §1.367(a)-8(e)(3)(i). For purposes of the new GRA, USP continues to be the U.S. transferor, FC2 continues to be the transferee foreign corporation, and FC3 is the successor transferred corporation and is treated as the original transferred corporation. The new GRA applies through the close of Year 6 (the remaining term of the original GRA filed by USP).

Importantly, this transaction is also subject to the provisions of section 367(b), including Treas. Reg. §1.367(b)-4. If FC3 is not controlled foreign corporation after the exchange, then there may be a deemed inclusion of the section 1248 amount.

**Ending Point**

