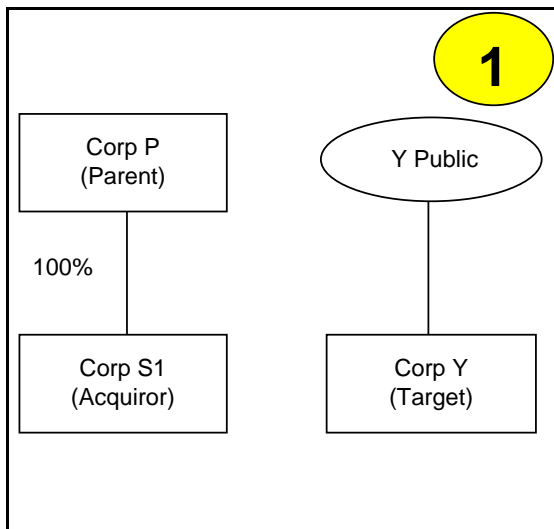
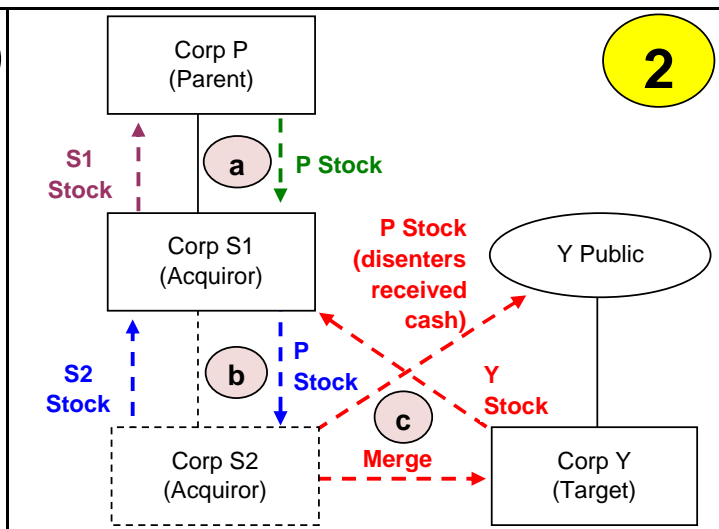


**Reverse Triangular Merger Treated as Triangular B Reorg**

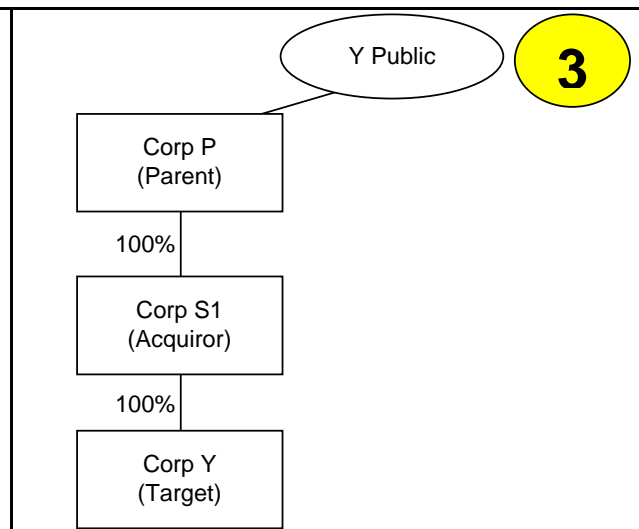
**Initial Structure**



**Acquisition**



**Ending Point**



The stock of corporations P and Y is publicly held. Corporation S1 is a wholly-owned subsidiary of P. S1 desired to acquire all the stock of Y and in order to eliminate the possibility of having minority shareholders in Y, the following steps were taken pursuant to a plan: (a) P transferred shares of its voting stock to S1 in exchange for shares of S1 stock. (b) S1 transferred the shares of P voting stock to its newly formed subsidiary S2, in exchange for shares of S2 stock. (c) S2 (whose only asset consisted of a block of the voting stock of P) merged into Y in a transaction which qualified as a statutory merger under the applicable state law. (d) Y stock held by Y shareholders (except for dissenters) was exchanged for the P stock received by Y on the merger of S2 into Y. At the same time the S2 stock owned by S1 was exchanged for Y stock. The end result of these transactions was that S1 acquired from the shareholders of Y, in exchange for voting stock of P, more than 95 percent of the stock of Y. (e) Y shareholders owning less than 5 percent of the stock of Y dissented to the merger and had the right to receive the appraised value of their shares paid solely from assets of Y. No funds, or other property, have been or will be provided by P or S1 for this purpose.

Section 368(a)(2)(E) provides that a transaction otherwise qualifying as a statutory merger under section 368(a)(1)(A) will not be disqualified by reason of the fact that stock of a corporation (controlling corporation) which before the merger was in control of the merged corporation is used in the transaction if (1) after the transaction, the corporation surviving the merger holds substantially all of its properties and of the properties of the merged corporation (other than stock of the controlling corporation distributed in the transaction), and (2) in the transaction, former shareholders of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, an amount of stock in the surviving corporation which constitutes control of such corporation. In the instant case, the transaction does not qualify as a reorganization under section 368(a)(1)(A) and (a)(2)(E), because stock of P, rather than stock of the controlling corporation S1, was transferred to the Y shareholders in the transaction. Section 368(a)(1)(B) provides, in part, that the term "reorganization" means the acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation (whether or not the acquiring corporation had control immediately before the acquisition).

In Rev. Rul. 67-448, pursuant to a plan of reorganization, a parent corporation, P, issued some of its voting stock to its new subsidiary S and S, pursuant to the plan, merged into unrelated corporation, Y, with the Y shareholders exchanging their Y stock (amounting to 95 percent of the outstanding stock of Y) for the P stock received by Y in the merger of S into Y. Rev. Rul. 67-448 states that the net effect of this series of steps for Federal income tax purposes is a direct acquisition by P of 95 percent of the stock of Y from the Y shareholders in exchange solely for P voting stock and that the transitory existence of S is disregarded. Thus, Rev. Rul. 67-448 holds that the transaction will be treated as an acquisition by P, in exchange solely for a part of its voting stock, of stock of Y in an amount constituting control (as defined in section 368(c)) of Y, which qualifies as a reorganization within the meaning of section 368(a)(1)(B). In the instant case, the net effect of the steps taken was that S1 acquired, solely for voting stock of P (which was in control of S1), stock of Y in an amount constituting control of Y. Accordingly, the transaction in the instant case will be treated as an acquisition by S1, in exchange solely for a part of P voting stock (P being in control of S1), of stock of Y, (S1 being in control of Y after the transaction), which qualifies as a reorganization within the meaning of section 368(a)(1)(B). Pursuant to section 354(a) the former shareholders of Y will recognize no gain or loss on the exchange of their Y stock for P stock. See Rev. Rul. 74-564 which holds that a similar transaction that does not qualify as a reorganization under section 368(a)(1)(A) and (a)(2)(E) is treated as a reorganization qualifying under section 368(a)(1)(B).

