

**Revenue Ruling 81-247,
Situation 2**

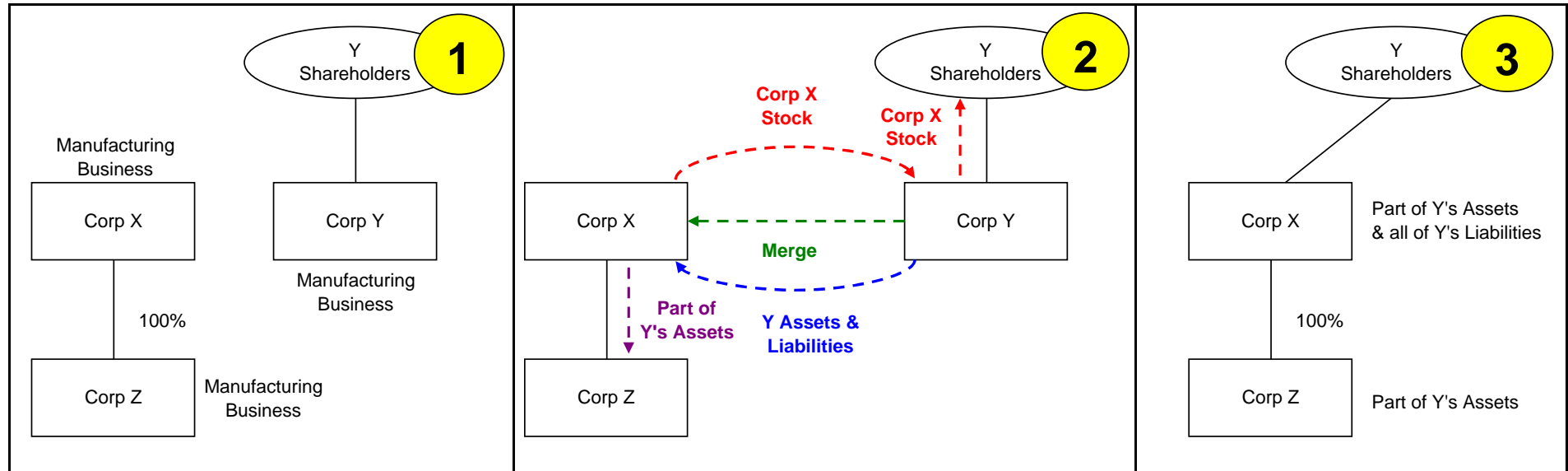
**COBE - Merger With a
Drop of Some Assets**

Copyright © 2008 Andrew Mitchel LLC
International Tax Services
www.andrewmitchel.com

Initial Structure

Merger With a Drop

Ending Point



In a transaction meant to qualify as a tax free reorganization under sections 368(a)(1)(A) and (a)(2)(C), corporation X, a company engaged in a manufacturing business, acquired, under the applicable merger laws of State M, a significant portion of the historic business assets of corporation Y, a manufacturing business. Immediately thereafter, X transferred less than a significant portion of Y's assets to corporation Z, its wholly-owned subsidiary engaged in a manufacturing business and X retained less than a significant portion of Y's assets. Both X and Z used their respective parts of Y's assets in their separate manufacturing businesses.

The application of the continuity of business enterprise rules of Reg. 1.368-1(d) will not prevent the transaction between X and Y, from qualifying as a tax free reorganization under sections 368(a)(1)(A) and (a)(2)(C), because the significant portion of Y's historical business assets received by X remained with X or corporations directly controlled by X. Therefore, the merger of Y into X, followed by the transfer, is a statutory merger within the meaning of sections 368(a)(1)(A) and 368(a)(2)(C). The above holding regarding would also apply in a situation that meets the qualifications of an asset acquisition under section 368(a)(1)(C) and (a)(2)(C) or a stock acquisition within the meaning of section 368(a)(1)(B) and (a)(2)(C).