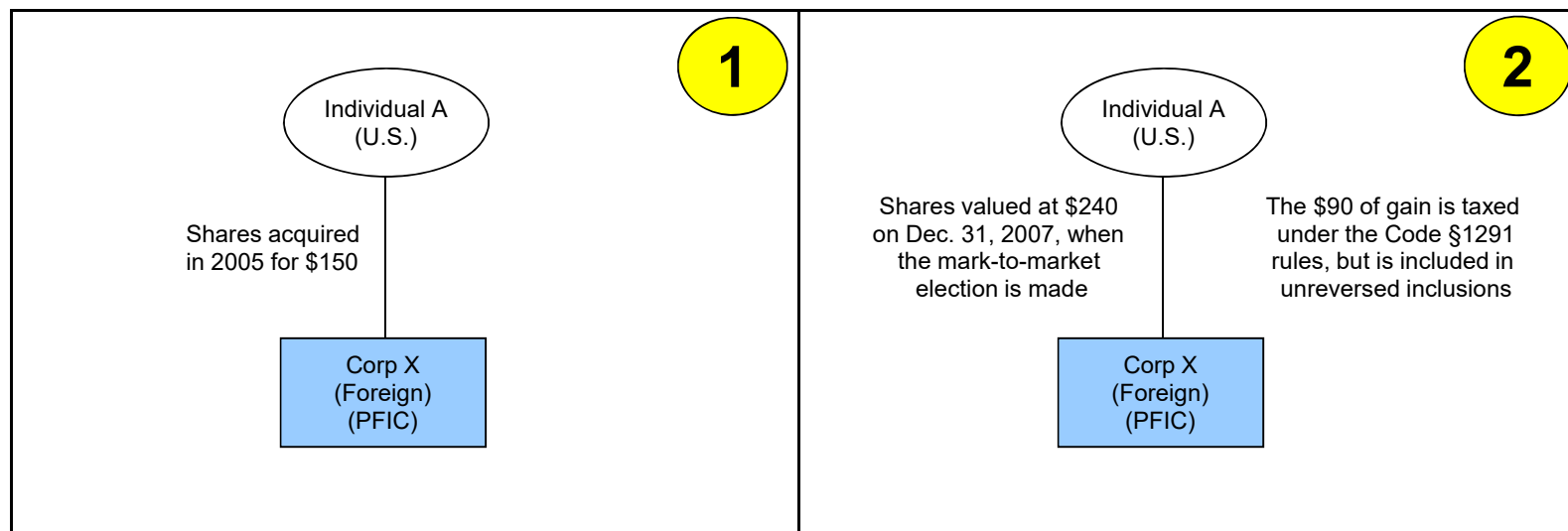


Gain from MTM Election in Year After Acquisition Is Included in Unreversed Inclusions Amount

Acquisition of PFIC Shares (2005)

Mark-to-Market Election (2007)



A, a United States person, acquired stock in Corp X, a foreign corporation, on January 1, 2005 for \$150. At such time and at all times thereafter, Corp X was a PFIC and A's stock in Corp X was marketable. For taxable years 2005 and 2006, Corp X was a nonqualified fund subject to taxation under section 1291. A made a timely Code §1296 election with respect to the X stock, effective for taxable year 2007. The fair market value of the X stock was \$200 as of December 31, 2006, and \$240 as of December 31, 2007. Additionally, Corp X made no distribution with respect to its stock for the taxable years at issue. In 2007, pursuant to Treas. Reg. §1.1296-1(i)(2)(ii), A must include the \$90 gain in the X stock in accordance with the rules of Code §1291 for purposes of determining the deferred tax amount and any applicable interest. Nonetheless, for purposes of determining the amount of the unreversed inclusions pursuant to Treas. Reg. §1.1296-1(a)(3)(ii), A will include the \$90 of gain that was taxed under Code §1291 and not the interest thereon.