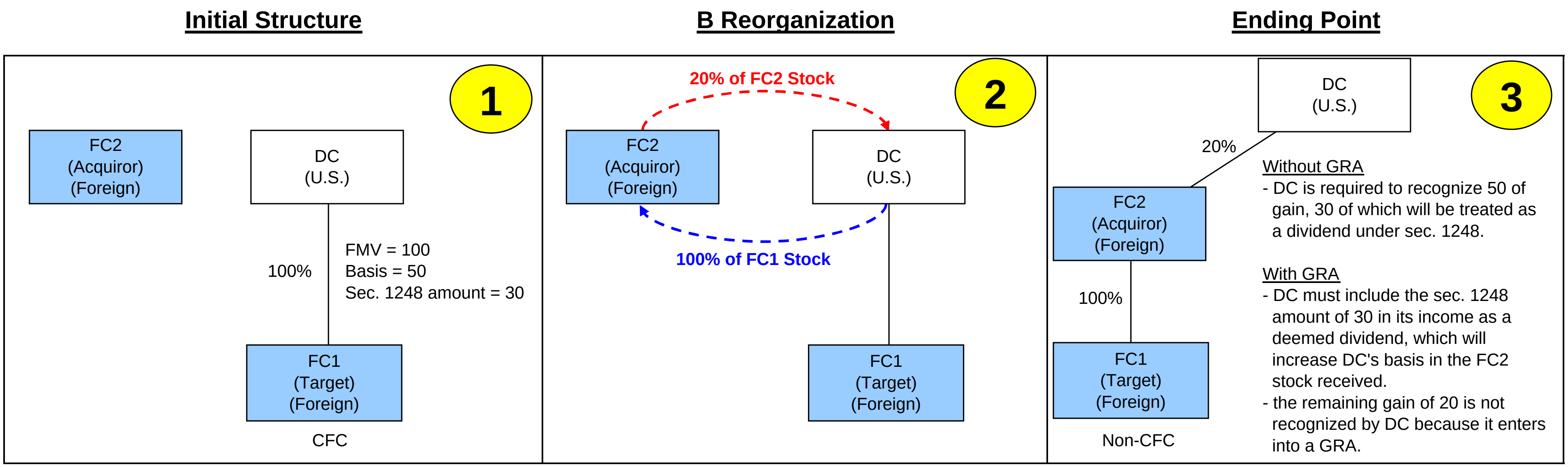
Reg. 1.367(a)-3(b)(2)(ii), Example

Outbound B Reorganization: CFC to Non-CFC (Sec. 367(a) & (b) Overlap)

Copyright © 2006 Andrew Mitchel LLC
International Tax Services
www.andrewmitchel.com



DC, a domestic corporation, owns all of the stock of FC1, a controlled foreign corporation within the meaning of section 957(a). DC's basis in the stock of FC1 is $50, and the value of such stock is $100. The section 1248 amount with respect to such stock is $30. FC2, also a foreign corporation, is owned entirely by foreign individuals who are not related to DC or FC1. In a reorganization described in section 368(a)(1)(B), FC2 acquires all of the stock of FC1 from DC in exchange for 20 percent of the voting stock of FC2. FC2 is not a controlled foreign corporation after the reorganization.

If DC fails to enter into a gain recognition agreement ("GRA"), DC is required to recognize the $50 of gain that it realized upon the transfer, $30 of which will be treated as a dividend under section 1248.

If DC enters into a GRA, the exchange will be subject to the provisions of section 367(b) to the extent that it is not subject to tax under section 367(a)(1). In such case, DC will be required to recognize the section 1248 amount of $30 on the exchange of FC1 for FC2 stock. The deemed dividend of $30 recognized by DC will increase its basis in the FC1 stock exchanged in the transaction and, therefore, the basis of the FC2 stock received in the transaction. The remaining gain of $20 realized by DC will not be recognized if DC enters into a GRA.

HUNDREDS of additional charts at www.andrewmitchel.com