

**Burnet v. Logan**  
**283 U.S. 404 (1931)**

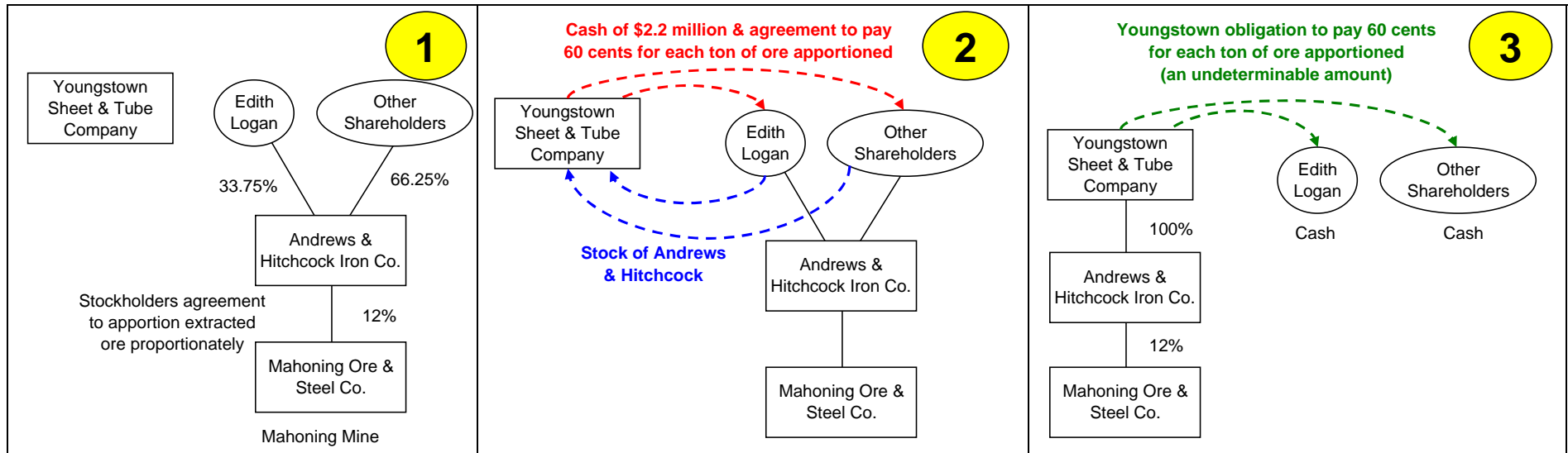
**Open Transaction Doctrine**  
**(Contingent Payments)**

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

**Initial Structure**

**Sale of Stock**

**Ending Point**



Burnet v. Logan involved a sale of stock under which the seller received cash and the buyer's promise to make future payments conditioned on contingencies. The cash received did not equal the seller's cost basis for the stock, and the contingencies affecting future payments precluded ascribing a fair market value to the buyer's promise. In later years payments were made which the seller did not include as income. The decision held that she was not required to do so. With respect to such payments, the court said:

As annual payments on account of extracted ore come in they can be readily apportioned first as return of capital and later as profit. The liability for income tax ultimately can be fairly determined without resort to mere estimates, assumptions and speculation. When the profit, if any, is actually realized, the taxpayer will be required to respond. The consideration for the sale was \$2,200,000.00 in cash and the promise of future money payments wholly contingent upon facts and circumstances not possible to foretell with anything like fair certainty. The promise was in no proper sense equivalent to cash. It had no ascertainable fair market value. The transaction was not a closed one. Respondent might never recoup her capital investment from payments only conditionally promised. Prior to 1921 all receipts from the sale of her shares amounted to less than their value on March 1, 1913. She properly demanded the return of her capital investment before assessment of any taxable profit based on conjecture.