In general, for section 304 to apply, one or more persons must be in control of each of two corporations. Control means the ownership of stock possessing at least 50% of the total combined voting power of all classes of stock entitled to vote or at least 50% of the total value of shares of all classes of stock. The constructive ownership rules of section 318 (with certain modifications) apply for purposes of determining control.

Box 1 Above: Under section 318(a)(2)(C), the stock of CFC2 is considered owned by Corp 1. Under section 318(a)(3)(A) the stock owned by Corp 1 is considered owned by the JV partnership. Therefore, the JV partnership is in control of CFC2 and CFC3. As a result, in box 1 above, the acquisition by CFC3 of the stock of CFC2 will be subject to section 304.

Box 2 Above: Section 318(a)(2)(A) provides that stock owned by a partnership shall be considered as owned proportionately by its partners. Thus, the stock of CFC3 will only be considered 10% owned by Corp 1. Therefore, although Corp 1 is in control of CFC1, it is not in control of CFC3 or CFC4. Therefore, in box 2 above, the acquisition by CFC1 of the stock of CFC4 will not be subject to section 304.