PLR 200932017

12 Month Treaty Holding Period Satisfied After F Reorg

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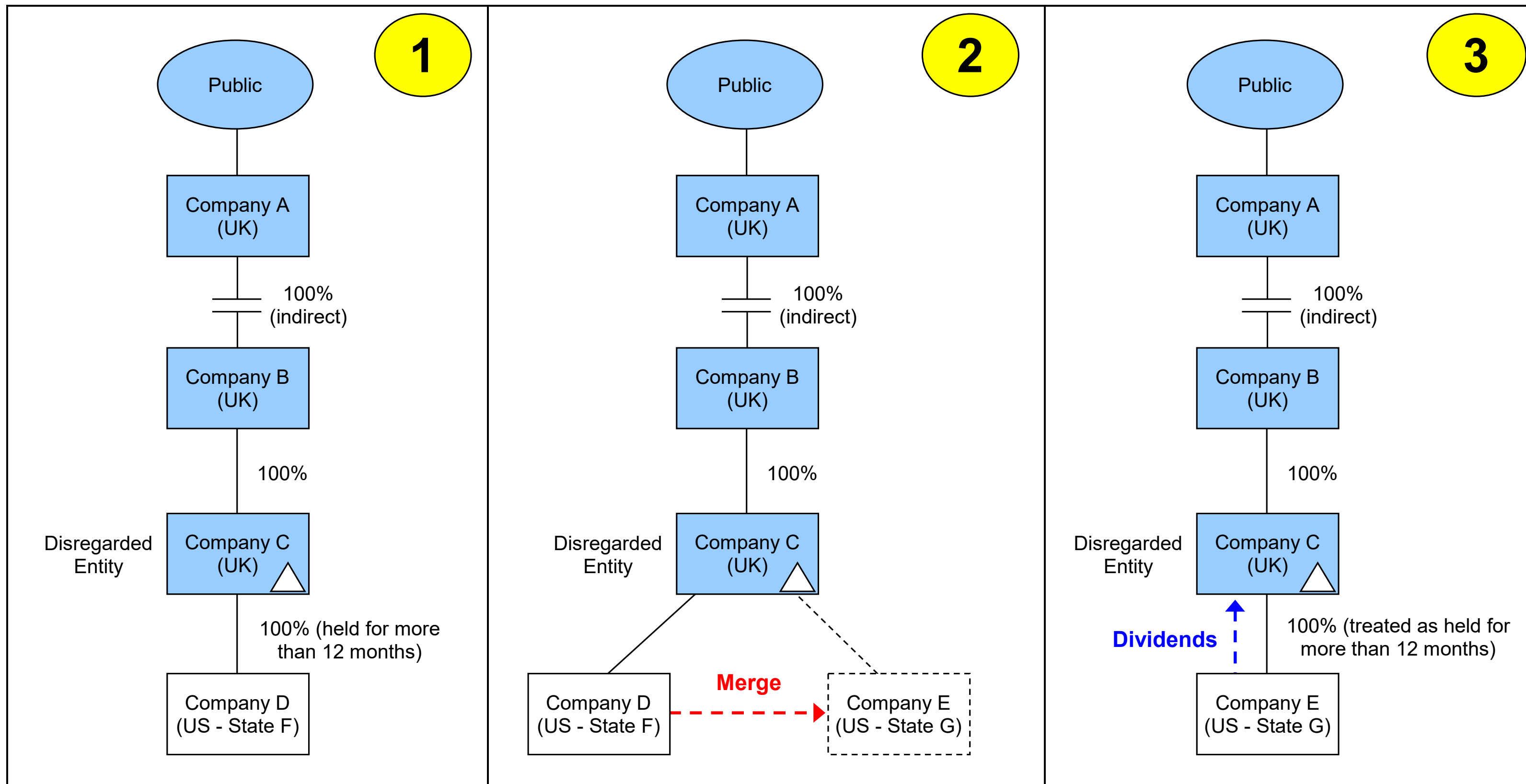

B is a U.K. company that is indirectly owned by A, a U.K. publicly traded company. B owns C, a U.K. company treated as a disregarded entity for U.S. tax purposes, which in turn owns D, a U.S. company chartered in State F. In a proposed transaction, C will create E, a U.S. company chartered in State G. D then will merge into E in a tax-free reorganization under section 368(a)(1)(F). E will be the surviving entity in the merger, effectively changing the place of incorporation of C's U.S. subsidiary from State F to State G. C owns 100% of the issued and outstanding capital stock of D, and has directly held such stock for a period of more than 12 months. C will own 100% of the issued and outstanding capital stock of E as a result of the proposed transaction. It is anticipated that E will declare a dividend on a date less than 12 months after the date of the transaction.

Article 10(3)(a) of the Treaty provides that dividends are not taxable in the source State if the beneficial owner of the dividends is a company resident in the other Contracting State that has owned shares representing 80% or more of the voting power of the company paying the dividends for a 12-month period ending on the date the dividend is declared. The PLR provides that C will satisfy the 12-month stock ownership requirement in Article 10(3)(a) of the Treaty as to any dividend paid to C by E less than 12 months following the proposed transaction. E, a State G corporation, generally will be treated for U.S. tax purposes as the same entity as D. Thus, C, which has directly owned D for more than 12 months, will be treated as having directly owned E for the requisite period under Article 10(3)(a).

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