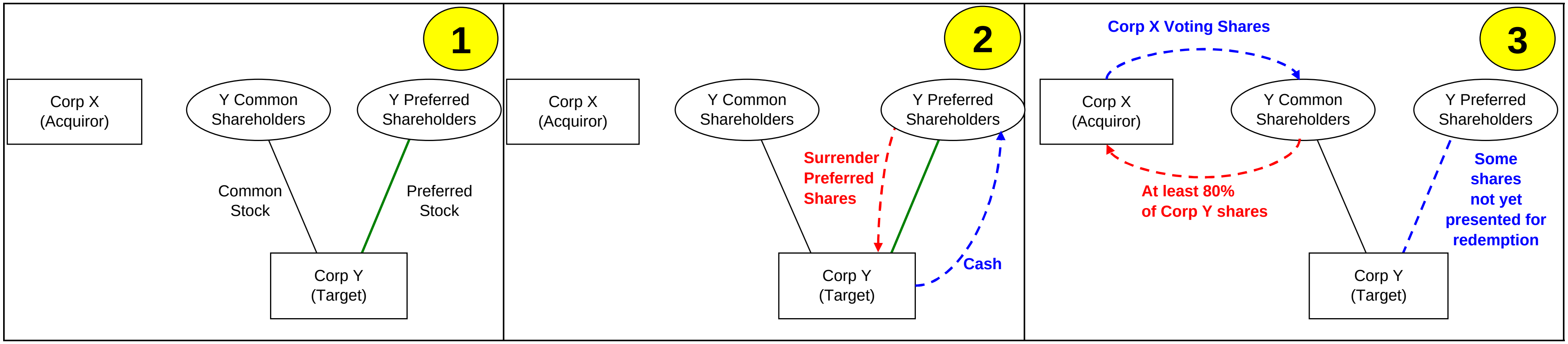
Revenue Ruling 55-440

368(c) Control - Preferred Shares Called But Not Yet Surrendered

Initial Structure **Call of Preferred Shares** **B Reorganization**



Pursuant to a plan of reorganization, Corp X acquired not less than 80% of the common stock of Corp Y in exchange solely for voting common stock of X. The offer of exchange by X was contingent upon its acceptance by the holders of at least 80% of the outstanding common stock of Y.

Y also has voting preferred stock outstanding which may be called at a specified price per share, plus accrued dividends, on any dividend date upon 30 days' notice to the stockholders of Y's intention to redeem the stock. Prior to the effective date of the exchange, the board of directors of Y resolved to call the preferred stock and the 30 day notices were mailed to the holders of the preferred stock. The redemption price of all the outstanding preferred stock was deposited with a bank as escrow agent.

After the exchange of common stock was consummated upon the tender of at least 80 percent of the common stock of Y, all of the preferred stock of Y had been previously called, but there were certain shares of the preferred stock which had not been presented for redemption prior to the effective date of the exchange.

The preferred shares previously called for redemption but not yet surrendered at the effective date of the exchange are not considered to be "stock" within the meaning of section 368(c) for the purpose of determining whether X was in control of Y after the exchange of common stock. The acquisition by X in exchange solely for shares of its voting common stock of at least 80 percent of the outstanding common stock of Y constitutes a reorganization within the meaning of section 368(a)(1)(B).

Ending Point