Corporation X purchased all of the outstanding stock of corporation Y within a 12-month period. Within two years of the last stock purchase X was merged into Y. Y’s assets had an adjusted basis to Y greater than the cost of the Y stock to X.

There are good business reasons for combining the businesses of X and Y. In this case it was decided to merge X into Y rather than liquidate Y in order to obtain the more favorable tax treatment afforded by the reorganization provisions of the Code.

Section 368(a)(1)(A) defines a statutory merger or consolidation as a reorganization. Section 362 provides that the basis of property acquired by a corporation in connection with a reorganization, will be the same as the basis in the hands of the transferor. Since X may accomplish its desired objective of combining the two businesses by either liquidating Y or by merging into Y, it may choose whichever form it desires for the transaction.