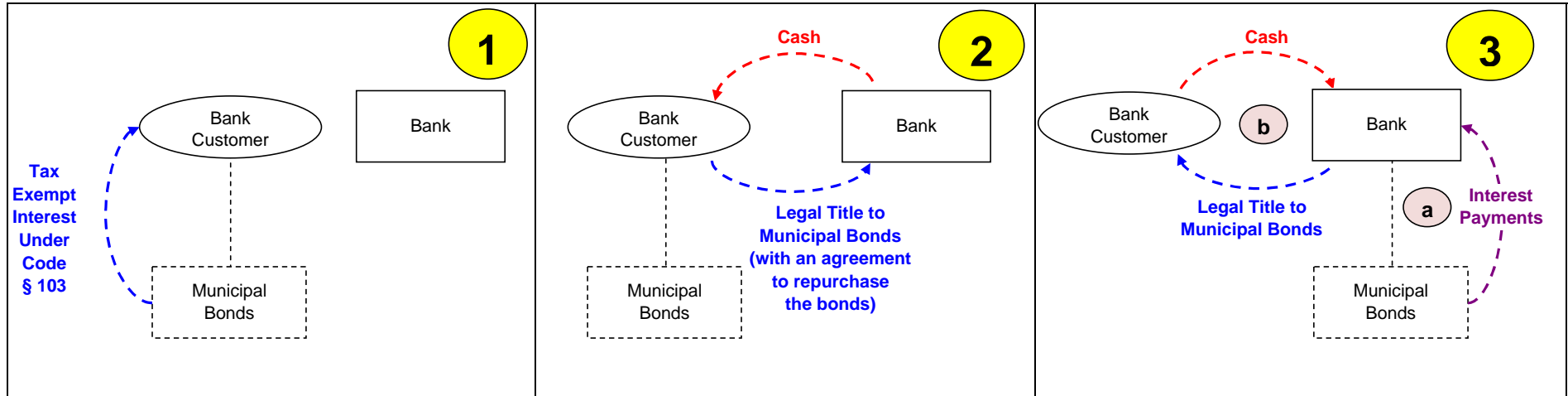


**Municipal Bond
"Repo" Agreements**

Initial Structure

Repo Agreements

Repurchase of Bonds



During the years 1970 to 1972, inclusive, the taxpayer, a bank, entered into transactions with certain of its customers which, it is purported, resulted in the "purchase and resale" of state or municipal bonds the interest on which is exempt from tax under section 103. The identical securities which are "sold" to the bank are required to be held by it for repurchase by the customer, and the customer is entitled to demand and receive such identical securities when he performs his agreement to repurchase. Upon the failure of the customer to repurchase the securities and to make payment therefor as stipulated, the bank may sell the securities, apply the proceeds of the sale upon the repurchase price, and either credit the customer with any excess or hold him liable for any deficiency. The customer is legally bound both to repurchase the securities and to pay any deficiency remaining unpaid after the application of the proceeds of sale (the customer not having a mere option to repurchase). The customer agrees to pay interest at a stipulated rate upon the amount advanced by the bank.

In the case of *First American National Bank of Nashville, v. United States*, 467 F. 2d 1098 (6th Cir. 1972), bond dealers orally agreed with a bank that it (bank) would buy tax exempt bonds from issuers and later sell them to the dealers at the price the bank had paid for them and the bank would accrue interest on the bonds until the latter sales occurred. In addition, arrangements were made whereby customers of the bank agreed that the bank would acquire bonds from dealers and later sell the bonds to the customers at the price it (bank) had paid with adjustments for accrued interest. The United States Court of Appeals held that the bank in substance never owned the bonds and was not entitled to tax exemptions for interest that accrued on the tax exempt bonds during the period held by the bank. This revenue ruling concludes that the "purchase and resale" agreements described simply effect loans of money by the bank upon collateral security and such agreements are not purchases by the bank of securities for investment.

Constructive Loan

