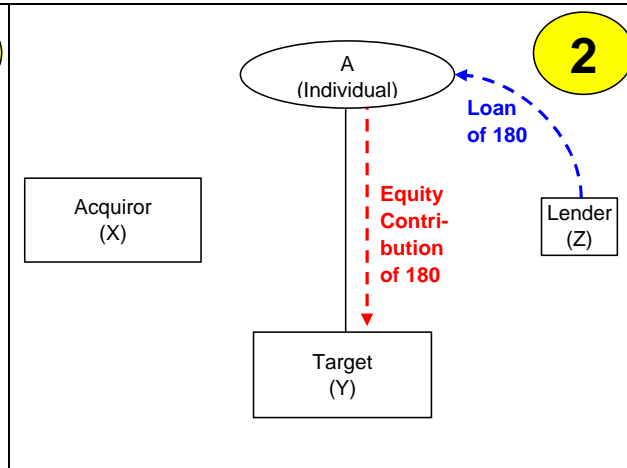
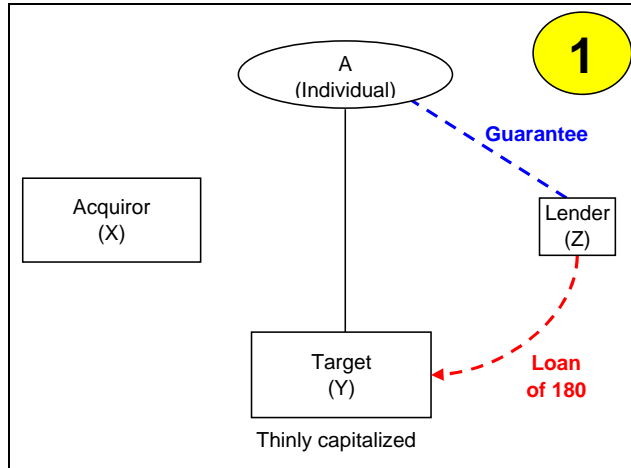


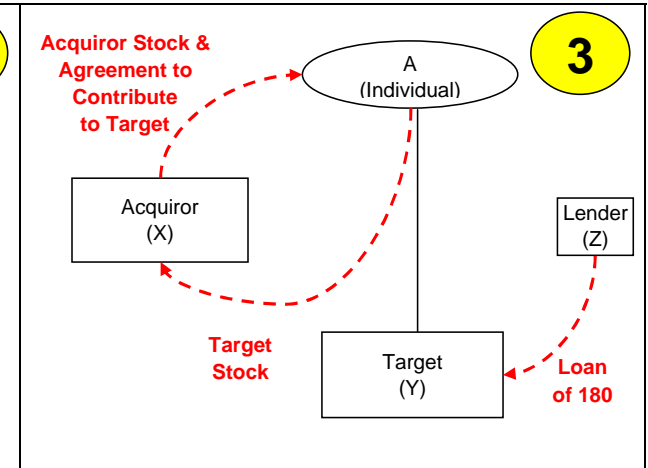
Acquiror Repayment of Debt Guaranteed by Target Shareholder is Boot in Purported B Reorganization

Deemed Recharacterization Under Plantation Patterns

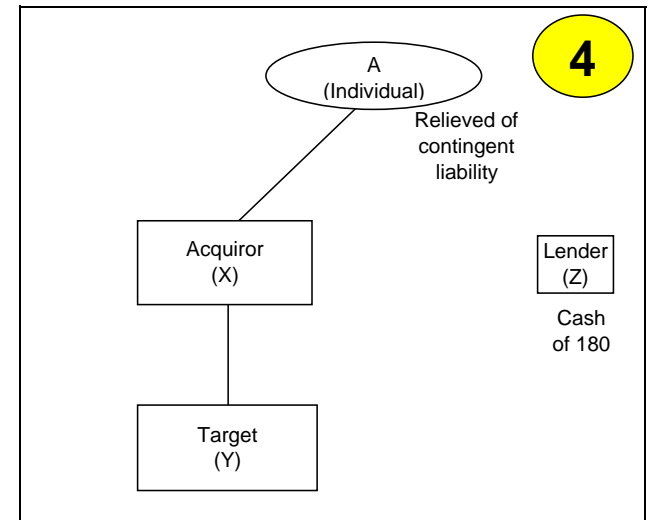
Initial Structure



Stock for Stock [Plus Agreement]



Ending Point



A was the guarantor of an unsecured note of Target. Because of Target's inadequate capitalization, Lender required that A guarantee the note. The facts and circumstances resulted in Lender being treated as having made the loan to A, and A being treated as having made a capital contribution into Target. See *Plantation Patterns v. Commissioner*, 462 F.2d 712 (1972). Payments of principal and interest by Target to Lender with respect to the loan were treated as discharging A's obligation to Lender, and such amounts were taxable to A as constructive distributions. Interest payments on the loan were considered as having been made by A.

Acquiror agreed to acquire 100% of the stock of Target from A. In addition, as a condition for the exchange, Acquiror agreed to contribute 180 to Target and to satisfy the debt to Lender. Because the agreement to contribute cash was a condition of the exchange, such contribution and repayment constitute additional consideration for the Target stock. The satisfaction of such debt would eliminate A's potential liability as guarantor and would improve A's borrowing ability. Thus, the solely for voting stock requirement of section 368(a)(1)(B) is not satisfied.

See, however, Rev. Rul. 79-89 where it was held that the solely for voting stock requirement was not violated where Acquiror contributed cash to Target to discharge indebtedness, which was guaranteed by one of the two shareholders of Target. The contribution was not a condition of the exchange and the fair market value of Acquiror's stock received by both shareholders was equal.