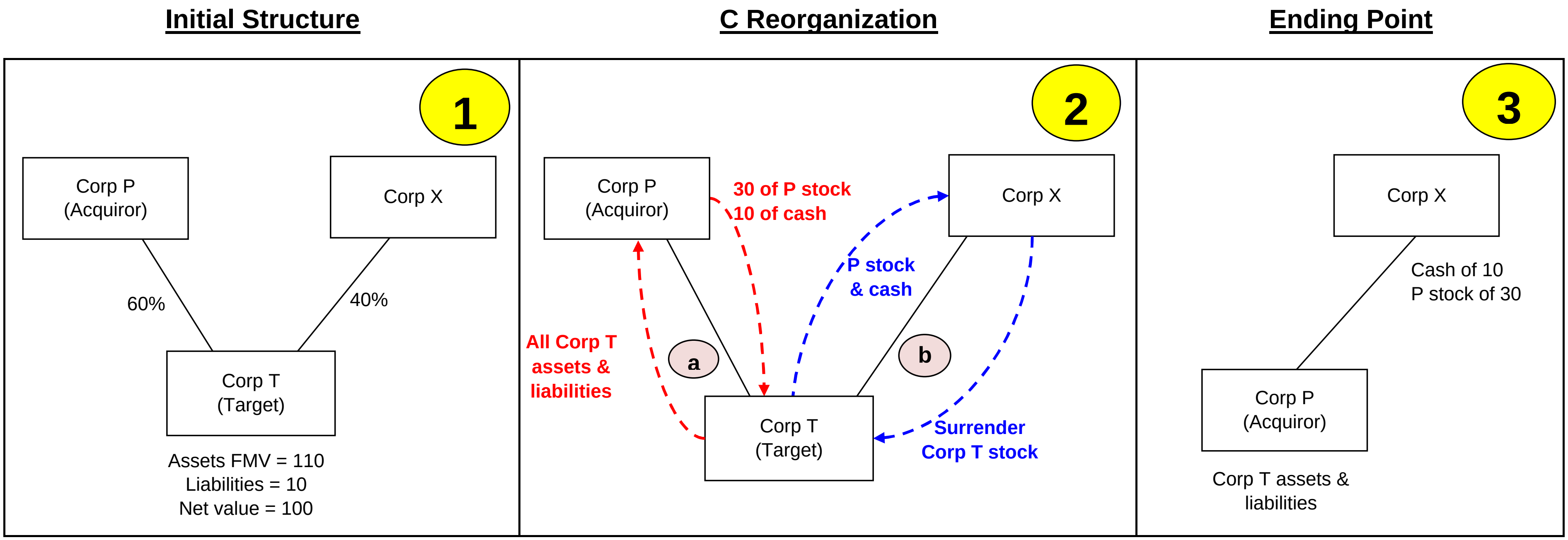
Reg. 1.368-2(d)(4)(ii), Example 1

Repeal of Bausch & Lomb Doctrine: Upsteam C Reorganization



In Bausch & Lomb Optical Co. v. Commissioner, 267 F.2d 75 (2d Cir.), cert. denied, 361 U.S. 835 (1959), the Second Circuit affirmed the Tax Court in holding that the acquisition of assets of a partially controlled subsidiary does not qualify as a tax-free "C" reorganization because it does not meet the solely for voting stock requirement. In Treasury Decision 8885, regulations were published which abolish the Bausch & Lomb doctrine.

Corp P holds 60% of Corp T stock that P purchased several years ago in an unrelated transaction. T has 100 shares of stock outstanding. The other 40% of the T stock is owned by Corp X, an unrelated corporation. T has properties with a fair market value of $110 and liabilities of $10. T transfers all of its properties to P. In exchange, P assumes the $10 of liabilities, and transfers to T $30 of P voting stock and $10 of cash. T distributes the P voting stock and $10 of cash to X and liquidates. The transaction satisfies the solely for voting stock requirement of paragraph (d)(2)(ii) of this section because the sum of $10 of cash paid to X and the assumption by P of $10 of liabilities does not exceed 20% of the value of the properties of T.