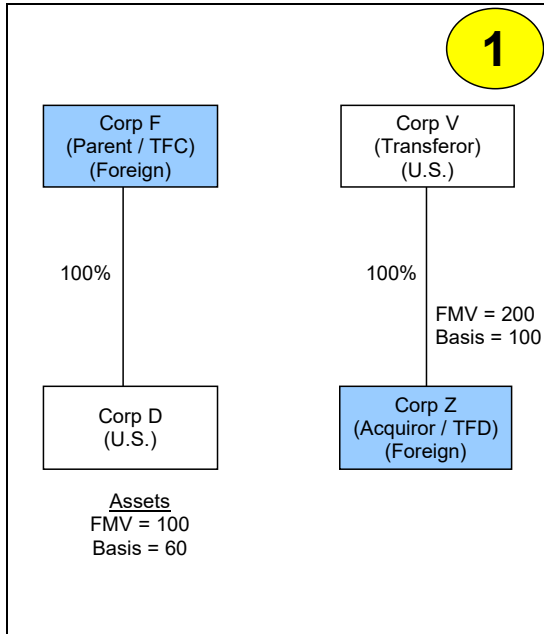


**Reg. 1.367(a)-3(d)(3), Example 11  
368(a)(1)(A) & 368(a)(2)(E)**

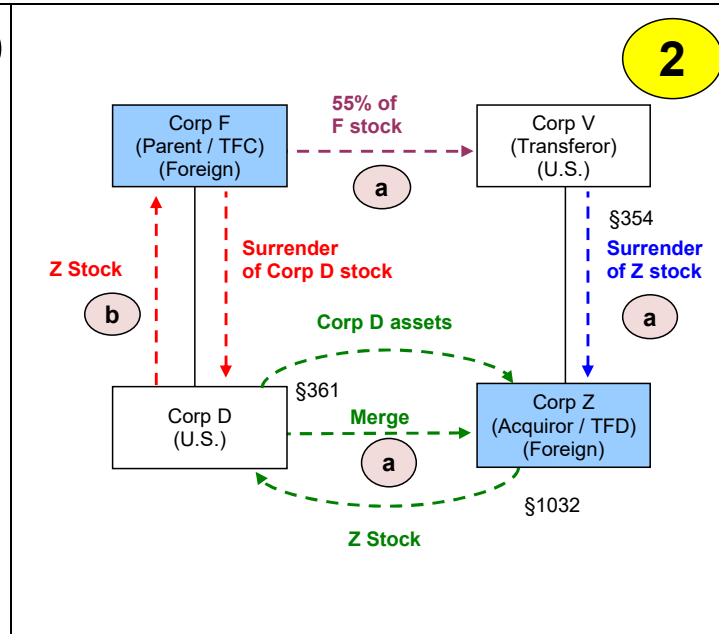
**Indirect Stock Transfer -  
Outbound Reverse Triangular Merger**

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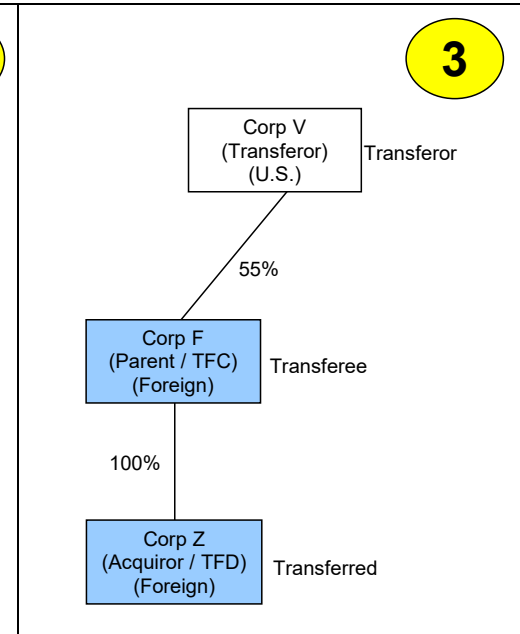
**Initial Structure**



**Outbound Forward Triangular Merger**



**Ending Point**



F, a foreign corporation, owns all the stock of D, a domestic corporation. V, a domestic corporation, owns all the stock of Z, a foreign corporation. V has a basis of \$100 in the stock of Z which has a fair market value of \$200. D is an operating corporation with assets valued at \$100 with a basis of \$60. In a reorganization described in sections 368(a)(1)(A) and (a)(2)(E) ("Reverse Triangular Merger"), D merges into Z, and V exchanges its Z stock for 55 percent of the outstanding F stock.

V is treated as making an indirect transfer of Z stock to F. V's exchange of Z stock for F stock will be taxable under section 367(a) (and section 1248 will be applicable) if V fails to enter into a 5-year gain recognition agreement in accordance with the requirements of §1.367(a)-8. If V enters into a gain recognition agreement, the exchange will be subject to the provisions of section 367(b) and the regulations thereunder as well as section 367(a). Under §1.367(b)-4(b), however, no income inclusion is required because both F and Z are controlled foreign corporations with respect to which V is a section 1248 shareholder immediately after the exchange. The transferee foreign corporation is F, and the transferred corporation is Z (the acquiring corporation). If F disposes of all (or a portion) of Z stock within the 5-year term of the agreement (and V has not made a valid election under §1.367(a)-8(b)(1)(vii)), V is required to file an amended return for the year of the transfer and include in income, with interest, the gain realized but not recognized on the initial section 354 exchange. To determine whether Z (the transferred corporation) disposes of substantially all of its assets, only the assets of Z immediately prior to the transaction are taken into account. Because D is owned by F, a foreign corporation, section 367(a)(5) precludes any assets of D from qualifying for nonrecognition under section 367(a)(3). Thus, D recognizes \$40 of gain on the transfer of its assets to Z under section 367(a)(1).