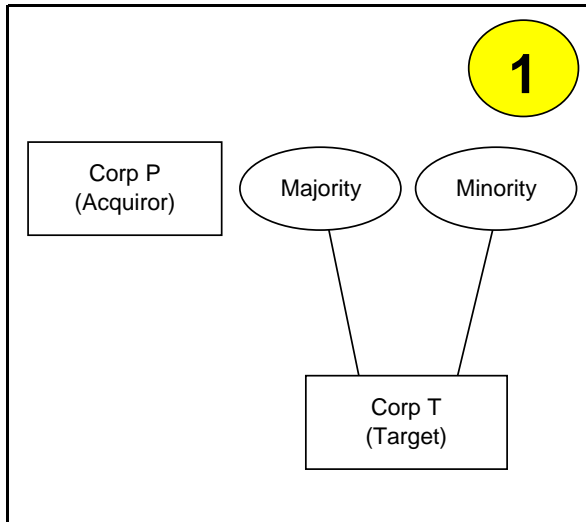
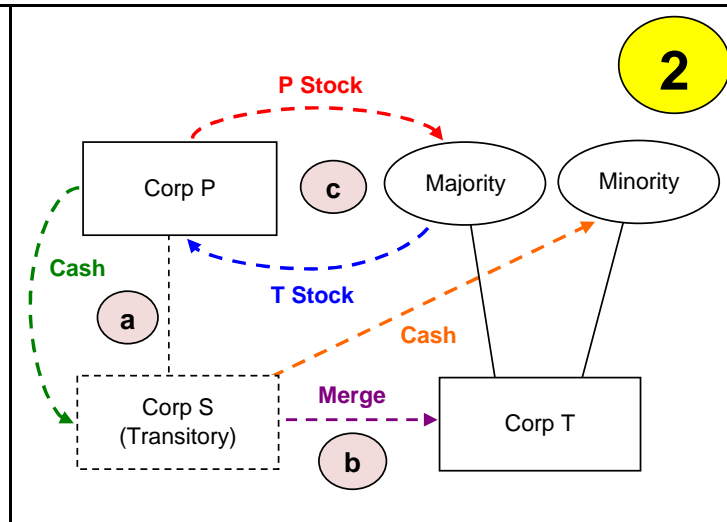


**Substantially All Properties
in Reverse Triangular Merger**

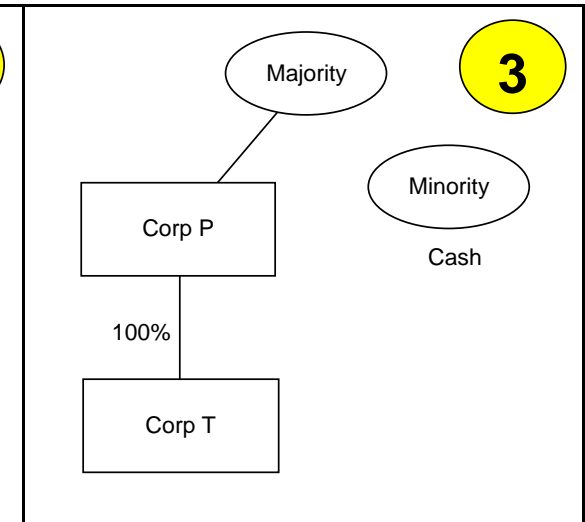
Initial Structure



Reverse Triangular Merger



Ending Point



P corporation formed S as a wholly owned subsidiary corporation solely for the purpose of effectuating a merger of S with and into T corporation in a transaction intended to qualify as a reorganization under Code § 368(a)(1)(A) and (a)(2)(E). As part of the plan of reorganization, P contributed to S sufficient cash so T (after S merged into it) could purchase the T stock of those minority T shareholders who would not want to exchange their T stock for P stock, and so T could pay cash in lieu of issuing fractional shares of P stock to those T shareholders who would exchange their T stock for P stock. The cash to be received by the T shareholders in lieu of fractional shares was not separately bargained for but was merely a mechanical rounding off of the fractions which would result from the exchange. In addition, P contributed sufficient cash to S so S could pay its expenses attributed solely to the merger.

Code § 368(a)(2)(E) provides, in part, that a transaction otherwise qualifying as a reorganization under Code § 368(a)(1)(A) (statutory merger) will not be disqualified if, after the transaction, the corporation surviving the merger (T) holds substantially all of its properties and the properties of the merged corporation (S). After the merger, without taking into account the cash contributed by P to S for the above stated purposes, T held all of the properties held separately by T and S immediately before the transaction. The transaction otherwise qualified as a reorganization under Code § 368(a)(1)(A) and (a)(2)(E).

The ruling held that T held substantially all of its properties and the properties of S after the transaction within the meaning of Code § 368(a)(2)(E). The cash contributed by P to S and used by S and T for the purposes described above is not taken into account in determining whether the "substantially all" requirement of Code § 368(a)(2)(E) has been met. Therefore, the transaction qualifies as a reorganization under Code § 368(a)(1)(A) and (a)(2)(E).