

# Transfer Pricing and Customs and Excise

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# Introduction

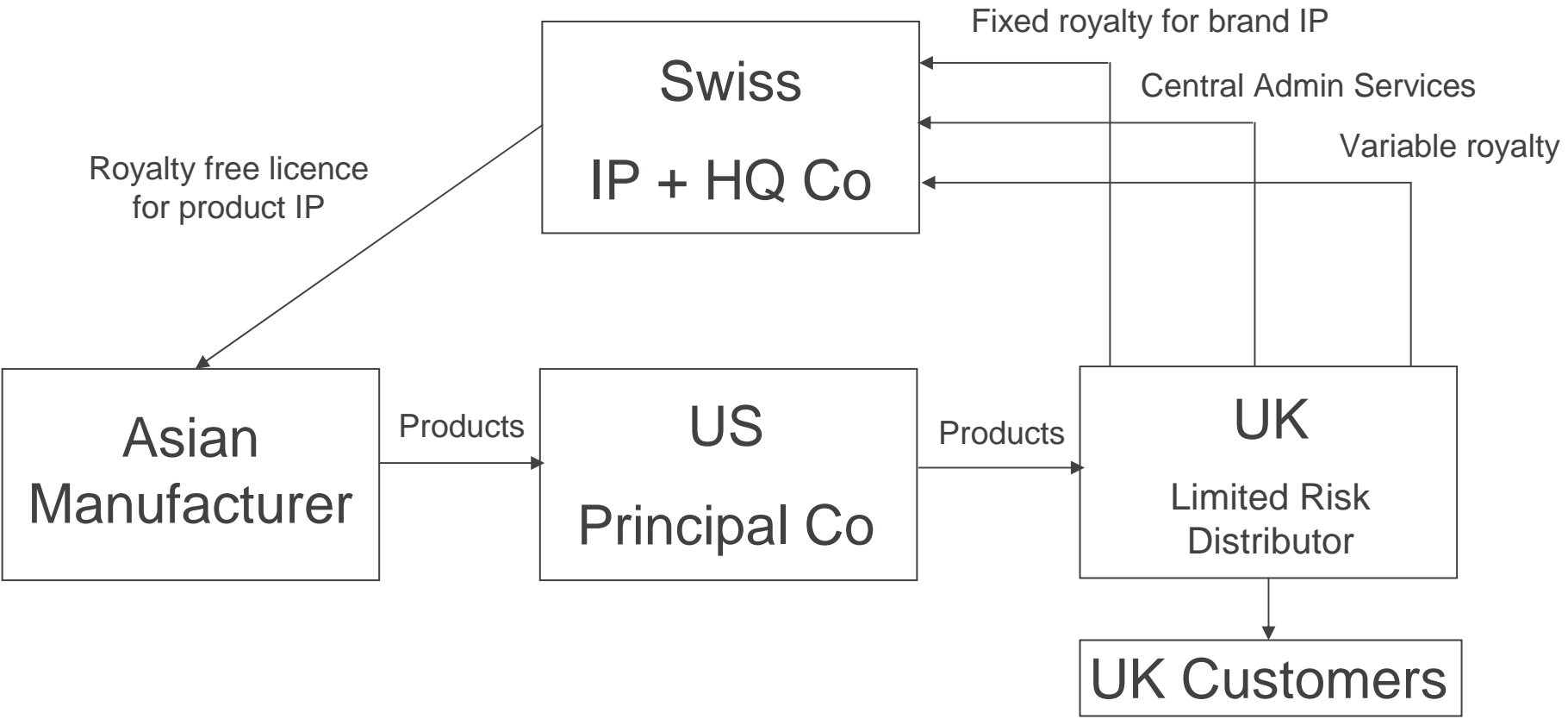
- Interaction between:
  - Customs rules on royalties and Modernised Customs Code
  - Transfer pricing adjustments
  - Corporation tax deduction
  - VAT
- Simple case-study
- Draw out key issues



# Transfer Pricing Reminder

- Ultimately, transfer pricing is about the allocation of profit in the supply chain to different legal entities
- Different mechanisms/transactions to achieve an appropriate allocation of profit:
  - Product price
  - Payment of royalties
  - Payment for services
- Different transfer pricing methods to test the allocation of profit:
  - Transactional methods (CUP, Cost Plus, Resale Price)
  - Profit split

# Case study





# Issues

- Transfer pricing and corporation tax issues:
  - Deduction of royalty
  - Determining the royalty under transfer pricing rules
  - Correct characterisation of entities
- Customs issues:
  - Fixed royalty – dutiable under MCC?
  - Variable royalty – dutiable under MCC?
  - Other payments dutiable under MCC?
- Import VAT:
  - Fixed royalty?
  - Variable royalty?
  - Other payments?



## Key “take-aways”

- Implications of the totality of transactions – evaluate the purpose of arrangements, including:
  - Fixed royalties
  - Variable royalties
  - Other transfer pricing adjustments
- Impact on VAT and customs:
  - Is a royalty dutiable?
  - Is a variable royalty/transfer pricing adjustment dutiable?
  - Are other payments dutiable?
- Answer: it depends...



## Discussion Points

“TP should always lead over customs value considerations”



## Discussion Points

“It is not possible to align TP with customs valuation strategies”



## Discussion Points

“When TP adjustments are allocated to services and intangibles they do not have a customs value impact”



## Discussion Points

“Which are the key factors to consider when implementing a TP adjustment for customs valuation purposes?”

# Thank you

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