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Supply Chain Planning: Transfer Pricing IS International Taxation

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RENOWNED FOR A REASON

What is Transfer Pricing?

- Every (!) international transaction between related parties
 - Arm's Length principle / market price benchmark
 - Also within Israel? Within the US?
- Why should the Board care?
 - Corporate governance
 - Effect on financials (also in audit)
 - Immediate/quarterly/annual reports
- What else?
 - PE
 - Royalties (withholding)
 - Dividends (withholding)
 - Depending on the TP...

Supply Chain Localization

[© <https://www.ecsourcinggroup.com/dev/wp-content/uploads/2020/04/Supply-Chain-Graphic.jpg>]



Supply Chain Pricing

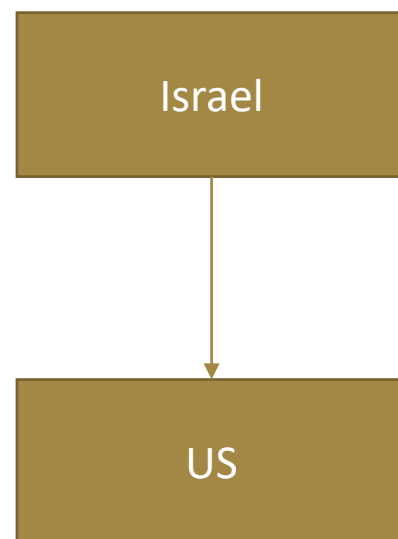
Undisclosed Agent (?)	<ul style="list-style-type: none"> • “Sales services” • “Clearing fees”
Marketing Services	<ul style="list-style-type: none"> • TNMM/Cost Plus • <u>Generating intangibles</u> (?)
Wholesaler	<ul style="list-style-type: none"> • Operating Margin
Low Risk Distributor (LRD)	<ul style="list-style-type: none"> • Operating Margin • Digital presence?
Full-Fledged Distributor	<ul style="list-style-type: none"> • Operating Margin • Which risks?
Management Services	<ul style="list-style-type: none"> • TNMM/Cost Plus <-> Profit Split; Risk of PE • Generating intangibles (?)
IP / R&D	<ul style="list-style-type: none"> • TNMM/Cost Plus • Profit Split / CSA

Documentation Requirement

- TP study
 - Memo -> reversed burden of proof
 - Adjustments plus fines (קנס גרעון)
- ICA
- Form 1385
 - 1485
 - 5471/2
 - etc.
- MF, LF

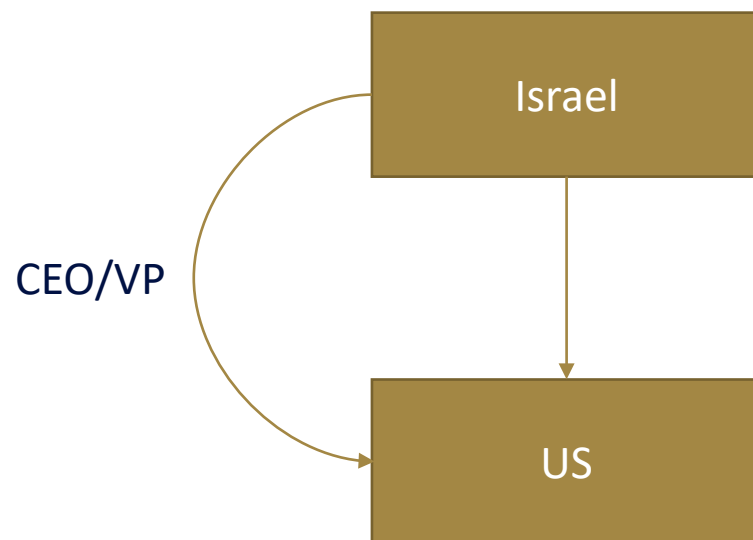
Planning Samples

- The company decides to open a sales and marketing subsidiary in the US
 - How do you finance it?



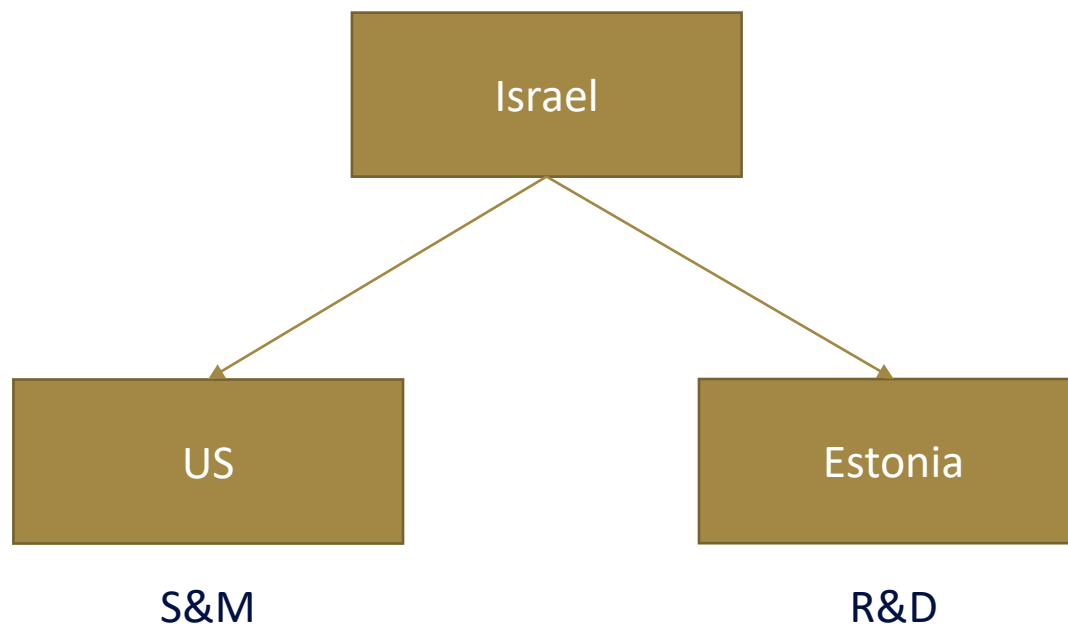
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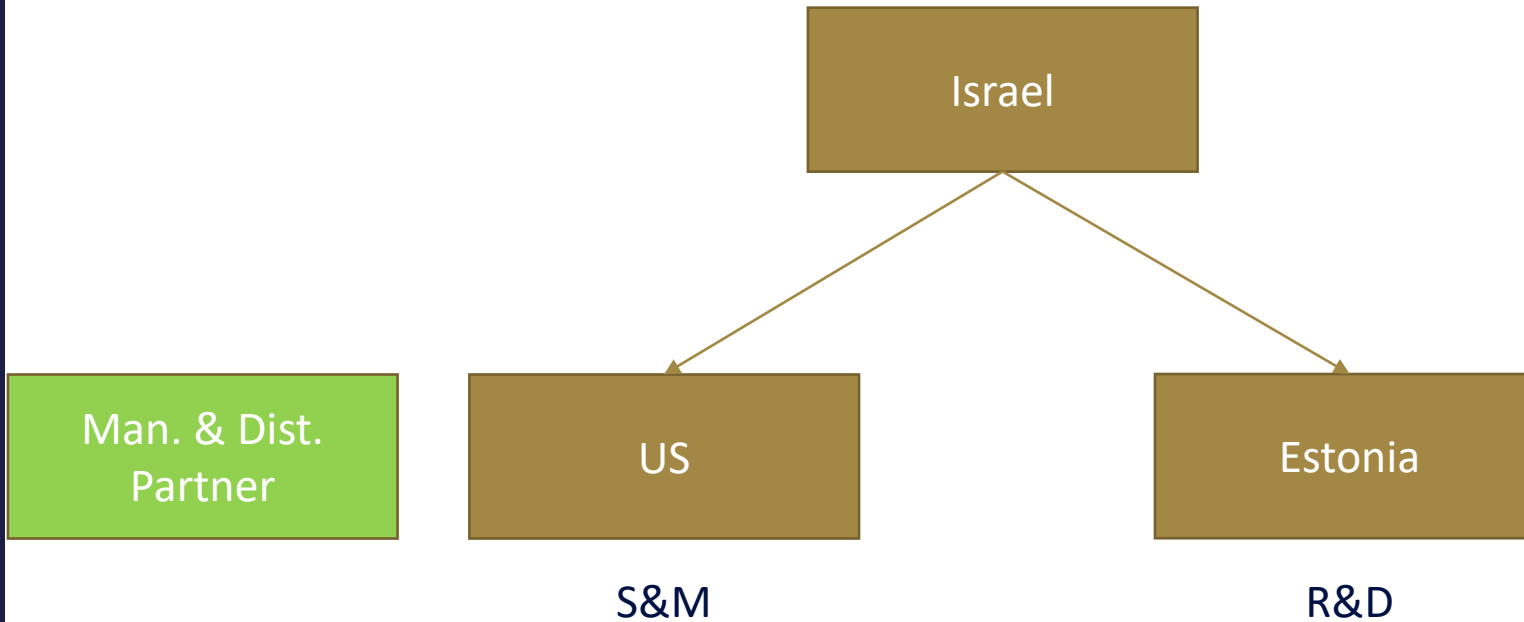
Planning Samples

- The company decides to open an R&D subsidiary in Estonia



Planning Samples

- The company decides to give a US partner, a license to its technology



- CUP?
- Which entity grants the license?
- Royalties

Some Important Takeaways

- Can a subsidiary lose?
 - OECD Covid-19 guidelines
 - If a local CEO embezzles funds?
- Israeli R&D subsidiary vs. a third party contractor
- Intercompany guarantee – when to price?
- CbCR, MF, LC
 - +ICA [pitfalls?]
- Risk of non-compliance
- Restructuring

Thank you.

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Discussion with the ITA

- Pillars:
 - Implementing in Israel prior to formal adoption?
 - Global controversies in addition to competent authority mechanism?
 - How will the ITA cope with the minimum 15%? [preferred enterprise]
- Cost Sharing Agreements and stock based compensation
- Master File threshold?
 - In Jordan: ~700K\$ of intercompany transactions
 - In EU countries – a different threshold mechanism (sales)
- PS vs TNMM circular?
 - Safe harbors?