

Training Workshop on Transfer Pricing

Case Study: Company T

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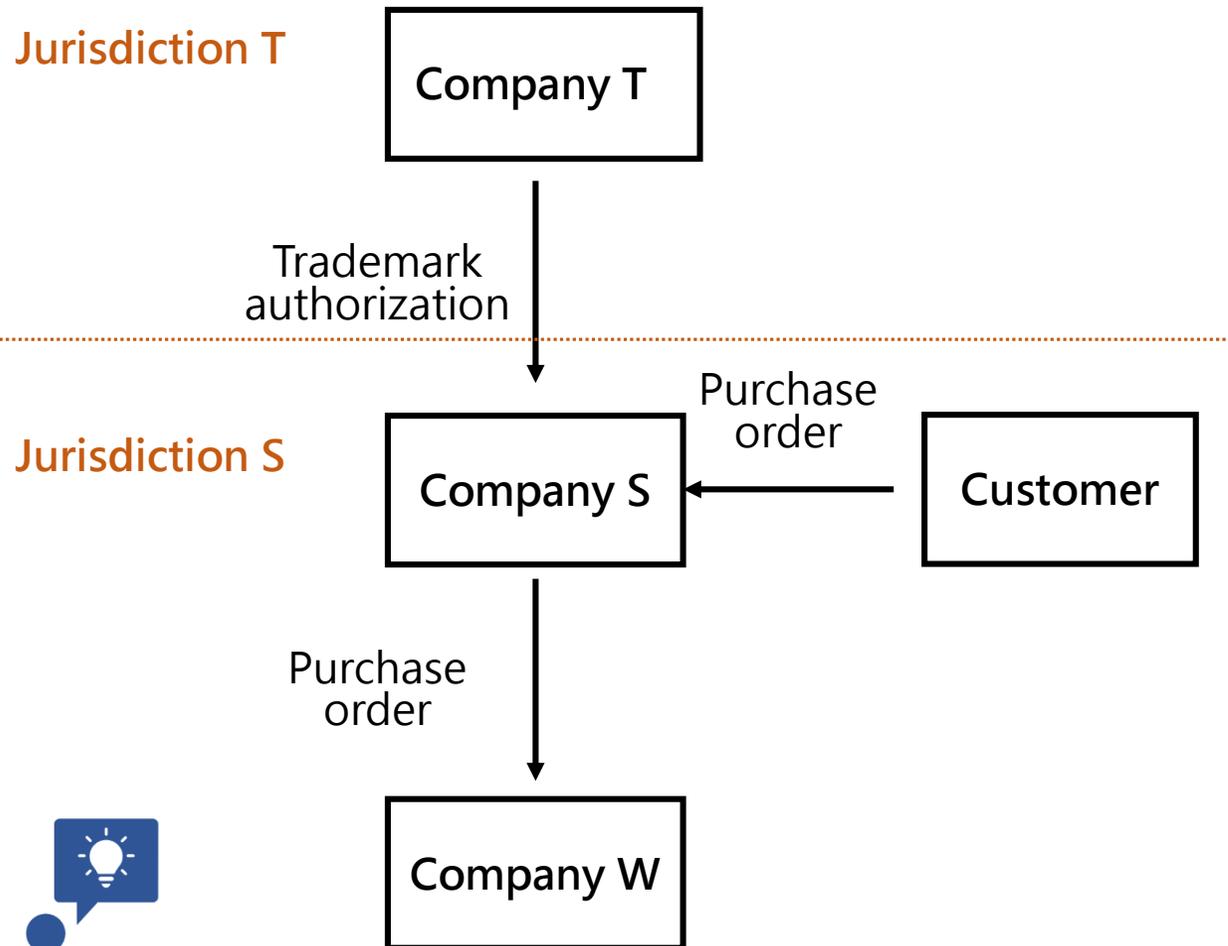


Outline

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Background Information



- ❑ Company T is the parent company of Group T. Being responsible for R&D of electronic equipment products, Company T also establishes production and marketing strategies for subsidiaries to follow.
- ❑ Company W and S are both established in Jurisdiction S. Company W is responsible for manufacturing for Company T.
- ❑ Company S, established for only 3 years, is responsible for marketing and distribution for Company T.



Background Information

Jurisdiction T



Trademark authorization

Jurisdiction S



Purchase order



Purchase order



Our tax authority has found that :

- ❑ Brand T, which has been created and owned by Company T, is registered as a trademark in numerous jurisdictions.
- ❑ There is no specific agreement between Company S and Company T regarding royalty payments.
- ❑ Company S didn't pay any royalty fees to Company T for using Brand T to market and sell electrical equipment products in Jurisdiction S.



The Position of Company T

- ❑ Brand T may not necessarily have the same brand strength in Jurisdiction S as in Jurisdiction T
- ❑ Company S does not use Brand T to generate profits
- ❑ The purchasing price agreed upon between Company S and Company W already includes the value of the trademark
- Our tax authority needs to determine whether Brand T provides financial benefits, which would justify a charge for using the brand



Whether Use of Company T's Brand Provides Financial Benefits

- ❑ Brand T has brand value
- ❑ Being established for less than 3 years, Company S has already achieved sales exceeding hundreds of millions of US dollars
- ❑ Brand T brings Company S financial benefits



Functions Performed and Risks Assumed Analysis

□ Company T

- Product development and positioning
- Establishment of marketing strategies for Group T
- Final decision on the core advertising messages for Group marketing
- Assuming risk of product development and market risk of poor sales

□ Company S

- Following the marketing strategies and to sell and distribute in Jurisdiction S
- Providing market research information on electrical products in Jurisdiction S
- Assuming inventory risk and credit financing risk



DEMPE Activity Analysis

Company T

- Create and own Brand T
- Expand sales channels of Brand T

- Dedicated to integration of brand image and product
- Participate in global exhibitions

- Establish brand usage guidelines
- Monitor brand usage

- Monitor brand misuse and infringement
- Execute litigation and legal actions

- Develop new products and sales strategies using Brand T

Development

Enhancement

Maintenance

Protection

Exploitation

- User of Brand T

- Use Brand T for regional marketing activities

- Adhere to brand usage manual

- Report infringement to Company T

- Adhere to brand usage manual

Company S

The Arm's-Length Method & Results

- ❑ Comparable Uncontrolled Price Method (CUP)
- ❑ Commercial Database : Using the KtMINE database, 452 authorizing contracts filtered
- ❑ 1 comparable contract was identified
- ❑ Company T should charge a royalty fee equivalent to 3% of net sales



Challenges

- ❑ How to evaluate the value of a trademark or brand
- ❑ How to select the most appropriate arm's-length transaction method and determine the outcome
 - Profit Split Method (PSM) - Contribution analysis
 - Comparable Uncontrolled Price Method (CUP)



Thank You

