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HOVIONE

# Ireland's Fiscal System

20 April 2009

# Overview

- **What Ireland can offer**
  - Corporation tax rate of 12.5%
  - R&D credit (25% from 1/1/2009) on qualifying spend
  - Participation Exemption for holding companies
  - Onshore pooling of dividends
  - Access to Double Taxation Agreement Network
    - Royalties, Interest, Dividends
  - 0% rate on exploitation of IP to certain limits
  - Tax relief for acquisition of IP (to be introduced)
  - Recent experience of multinational groups relocating HO to Ireland and tax havens enveloping into Ireland

# Research & Development Incentives

- Ireland provides tax credits for R&D expenditure.
- This credit is available in addition to the trading deduction available for R&D spend.
- For a 12.5% taxpayer, this results in a net subsidy of 37.5% for years commencing 1/1/09 (32.5% pre 2009).
- Expenditure of a revenue nature on R&D and capital expenditure on plant for R&D purposes attracts the 25% credit
- R&D credit applies to incremental expenditure over and above the expenditure occurred in 2003 (if any)
- A tax credit of 25% can also apply to the cost of construction or refurbishment of a building used for R&D activities

# Participation Exemption

- **Exemptions from capital gains tax arising on the disposal of "substantial shareholdings" in EU/DTA companies**
- **Conditions to be met:**
  - Substantial shareholding is a holding of 5%
  - Shares cannot derive more than 50% of their value from Irish land or buildings
  - Shareholding must have been held for a continuous 12 month period ending with two years prior to disposal
  - Either the company whose shares are being disposed of, or the overall group making the disposal must primarily carry on a trade
  - 47 countries in EU/DTA Network

# Onshore Pooling of Dividends

- No further Irish tax on dividends received from foreign subsidiaries provided that the effective rate of foreign tax on those dividends equals 25% (12.5% for trading dividends)
- If foreign tax rate is higher than 25% (12.5% for trading dividends) then a portion of the excess can be credited against tax payable on other dividends from qualifying companies
- The balance can be carried forward to future years

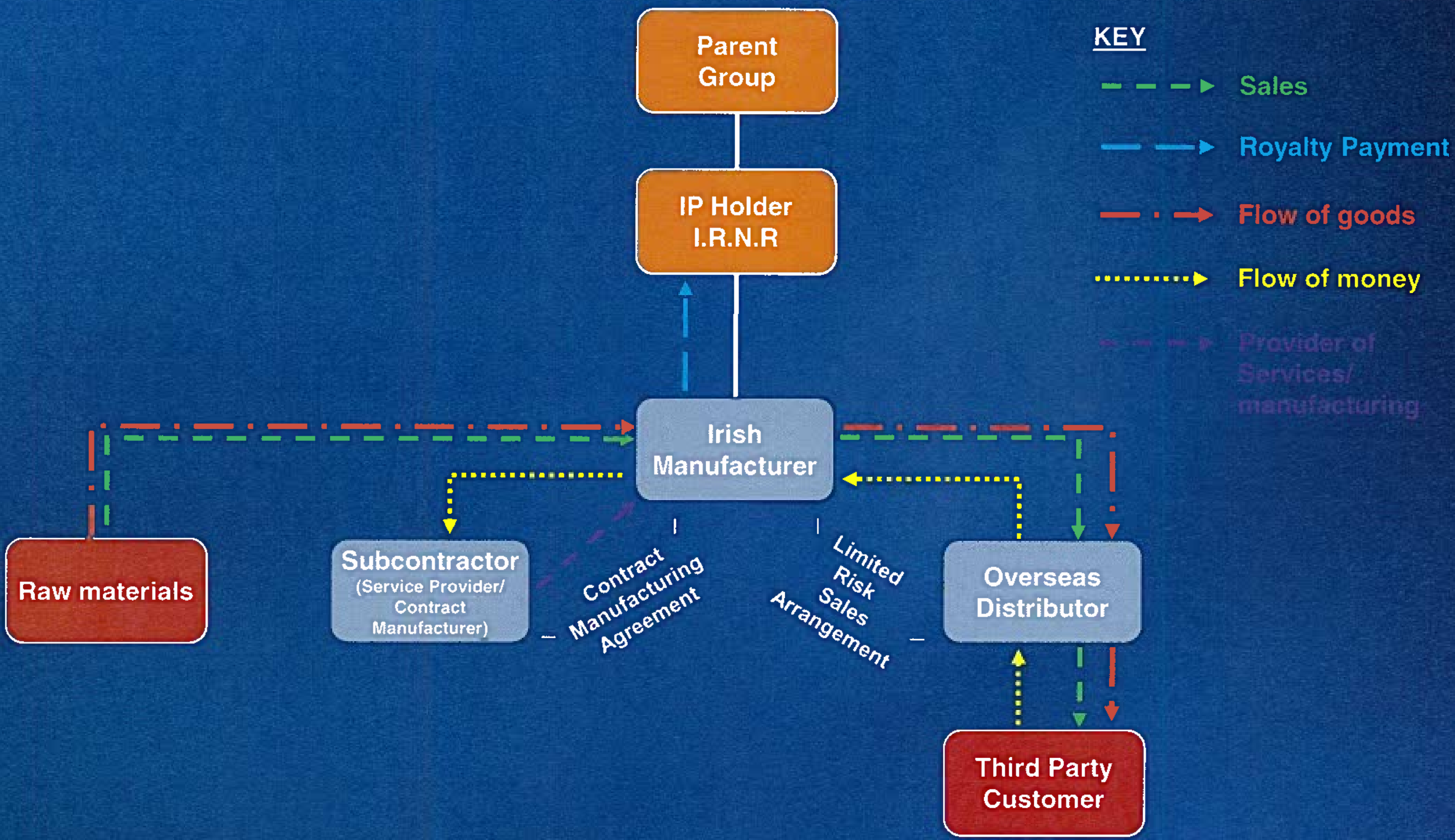
# Double Taxation Agreement Network

- Ireland has comprehensive double taxation agreements in force with 46 countries
- Facilitates international business
- Eliminates/mitigates double taxation
- Reduces withholding taxes on income
- Where a DTA does not exist with a particular country, there are provisions within the Irish Taxes Acts which allow unilateral credit relief against Irish tax for tax paid in the other country in respect of certain types of income (e.g. dividends and interest)

# Intellectual Property/Patent Royalties

- Income earned from a 'qualifying patent' is exempt from Irish corporation tax subject to a limit of €5 million in each calendar year
- A qualifying patent is defined as one where the research, planning, processing, experimenting, testing, devising, designing, developing or similar activity was carried out in the EEA
- Transfers of IP are generally exempt from Irish stamp duty
- Currently capital expenditure on acquiring patents rights may be written off over the life of the patent, or 17 years, whichever is the lesser
- Capital expenditure on software may be written off over 8 years
- Going forward: new tax relief in Ireland for acquisition of IP to be introduced in 2009

# Typical Irish Structure for Exploiting IP



# Typical Irish Structure for Exploiting IP (cont'd)

- **Current Issues with typical structure**
  - Anti deferral rules (may target income of Irish Registered Non-Resident ("IRNR") IP company)
  - Resulting in non resident IP company migrating IP to Ireland
  - Profits from exploitation of IP in Ireland subject to 12.5% tax rate
  - Tax deduction for acquisition of IP in Ireland going forward

# Worked Example

- Pharmaceutical manufacturer (CCM) locate IP and API manufacturing process business in Cork (e.g. at Hovione site)
- When CCM migrates IP and becomes Irish resident:
  - potential exit charges in foreign location
  - potential tax relief in Ireland on acquisition of IP
- CCM leases capacity at the Hovione site at a cost of €4m and contracts for services from Hovione at a cost of €16m. CCM's operating costs €1m.
- Manufactured API sold to related tabletting and distribution company (CCT) for €150m, leaving profits in Irish CCM of €129m.
  - Price paid to CCT for tabletting and distribution must be arms length (transfer pricing rules)
- CCT sells to third parties for €200m
- Tax on CCM profits in Ireland €16.125m
    - ➢ Assuming foreign rate of tax is 30% (€38.7m) potential tax savings of €22.5m if CCM locates in Ireland

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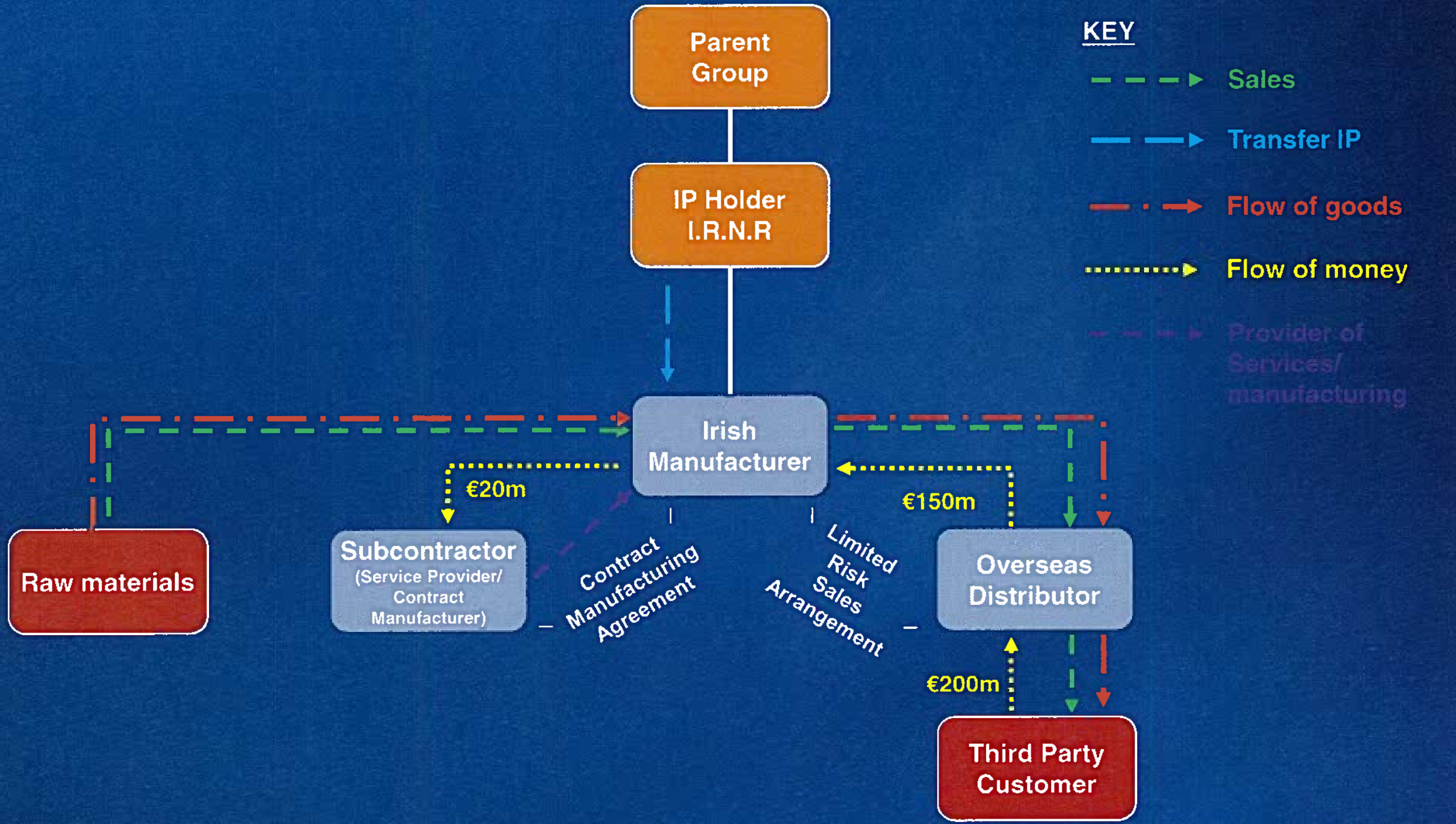


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# Multinational Group Tax Structures

- Possible Multinational Tax Structures for Distribution in EMEA Region with HQ/R&D/manufacturing in Ireland:
  - Principal Structure
  - Fully-fledged Distributor
  - Limited Risk Distributor
  - Commissionaire
  - Agent
- Companies in Pharma, IT, communications, medical technologies and international services have found a home in Ireland
- Tax advice should be sought locally prior to implementing any restructure of current business model

# Summary: Ireland as a location for CCM

- 12.5% rate of tax
- R&D tax credit
- Onshore pooling of foreign dividends
- Participation exemption
- Interest deduction available to Irish companies borrowing funds used to acquire shares in trading subsidiaries
- No thin capitalisation rules
- No CFC rules
- Generally no DWT on distributions to EU/DTA states

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