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TAXATION OF DIGITAL ECONOMY

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1. Case study: C-419/14 *WebMindLicenses*
2. Background problems of double sided economy
3. Review of current rules (technical details of the work of OECD on: PE, business profit, characterisation of income)
4. Change in paradigm (Internet as a shared environment, criteria of jurisdiction, legal interpretation and enforcement issues)
5. Legislative innovation (predator tax, Google tax, advertising tax)

BACKGROUND: INTERMEDIATION AND DOUBLE-SIDED ECONOMY

Old problem:

the major part of profit does not arise even with the entity that has developed the intellectual work (in the ultimate residence country), but with the entity that has made the commercial exploitation of the intellectual work as developed (in the intermediate country)

New problem:

as clients that are the carriers of consumer energy deliver information free of charge (in the market country), it is only a small portion of profit that can be allocated to entities that constitute a link to customers

BACKGROUND: DOUBLE-SIDED ECONOMY

Double-sided activity:

- one single “platform” that offers services to two (or more) categories of users
- positive externalities: the utility of each user from one category increases with the increase in number of members from the other category on the platform
- example: through social networks, on one side a communications service is offered free to subscribers, while on the other side advertisers are offered access to a well segmented audience

Julien Pellefigue, “International transfer pricing economics for the digital economy“, *International Transfer Pricing Journal*, 2015 (Volume 22), No. 2; Published online: 28 January 2015, p. 3

BACKGROUND: ANTI-AVOIDANCE LEGISLATION

Priority should be given to three areas within the G20/OECD BEPS projects upon countering harmful tax practices in the digital economy (old techniques in a new context):

- address hybrid mismatch arrangements
- apply effective controlled foreign corporation provisions
- prevent the circumvention of withholding tax on interest and royalties through treaty shopping structures

Report of the Commission Expert Group on Taxation of the Digital Economy, Brussels, 28 May 2014, pp. 43-49

Pouring new wine into old bottles? Respect tradition, but listen and deliberate

M. Margaret McKeown, “The internet and the constitution: A selective retrospective“, *Washington Journal of Law, Technology & Arts*, Vol. 9, No. 3/2014, p. 175

Figure 5.1. **BEPS** planning in the context of income tax

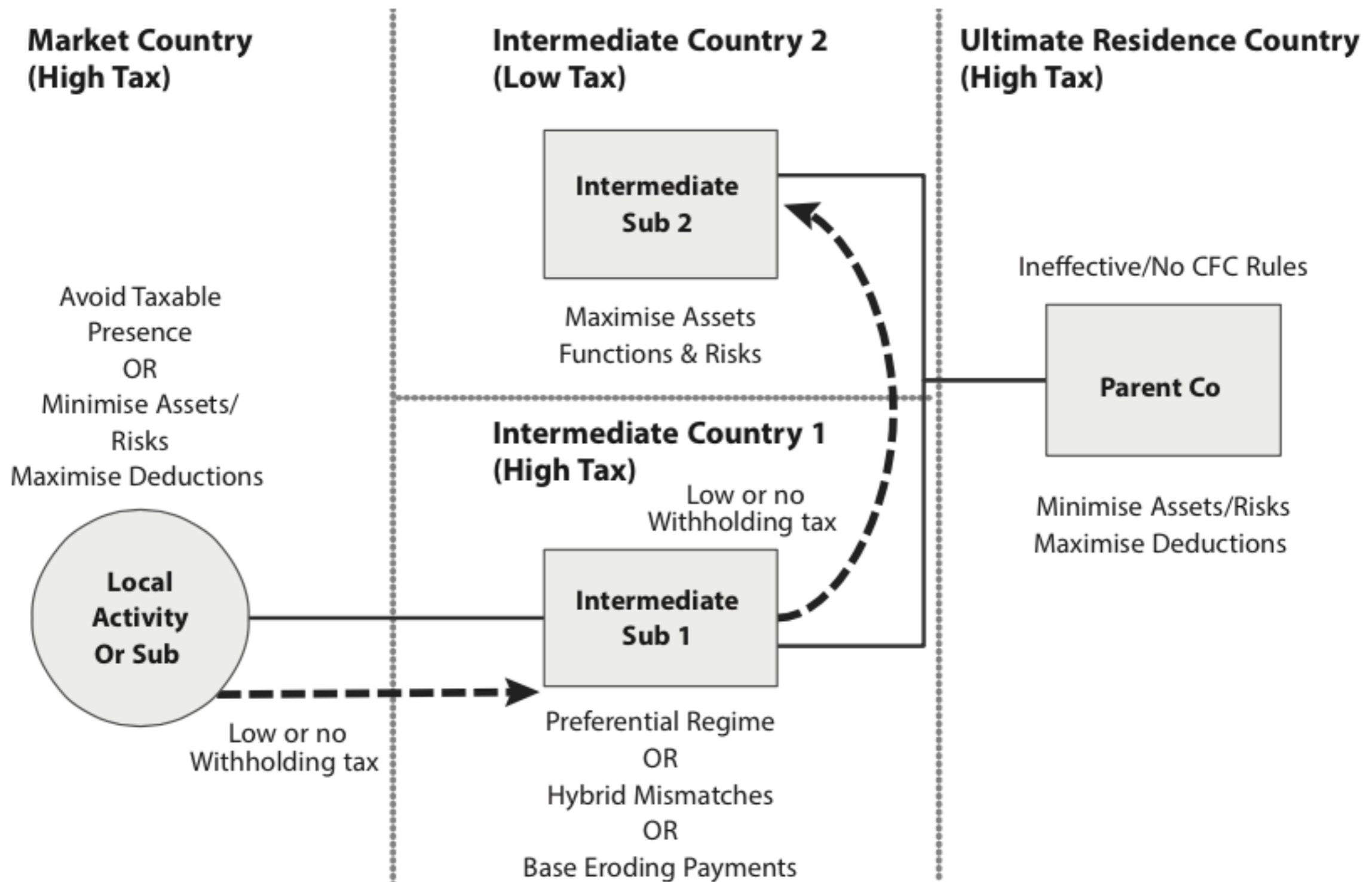


Figure 2: Revenue flow in BEPS tax planning scheme

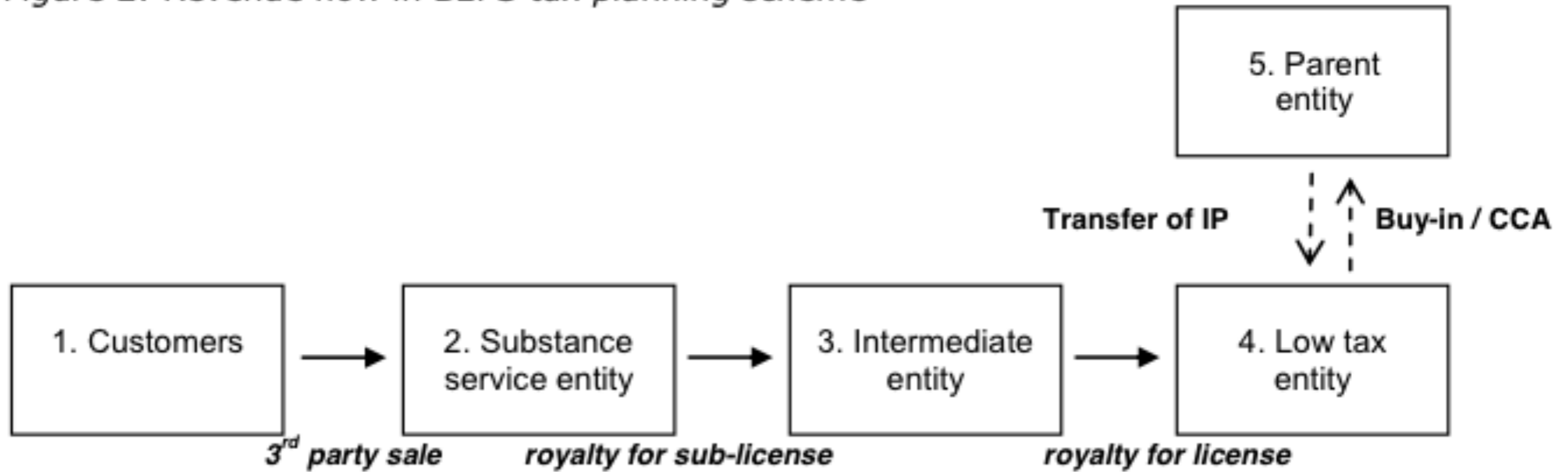


Figure B.2. Internet advertising

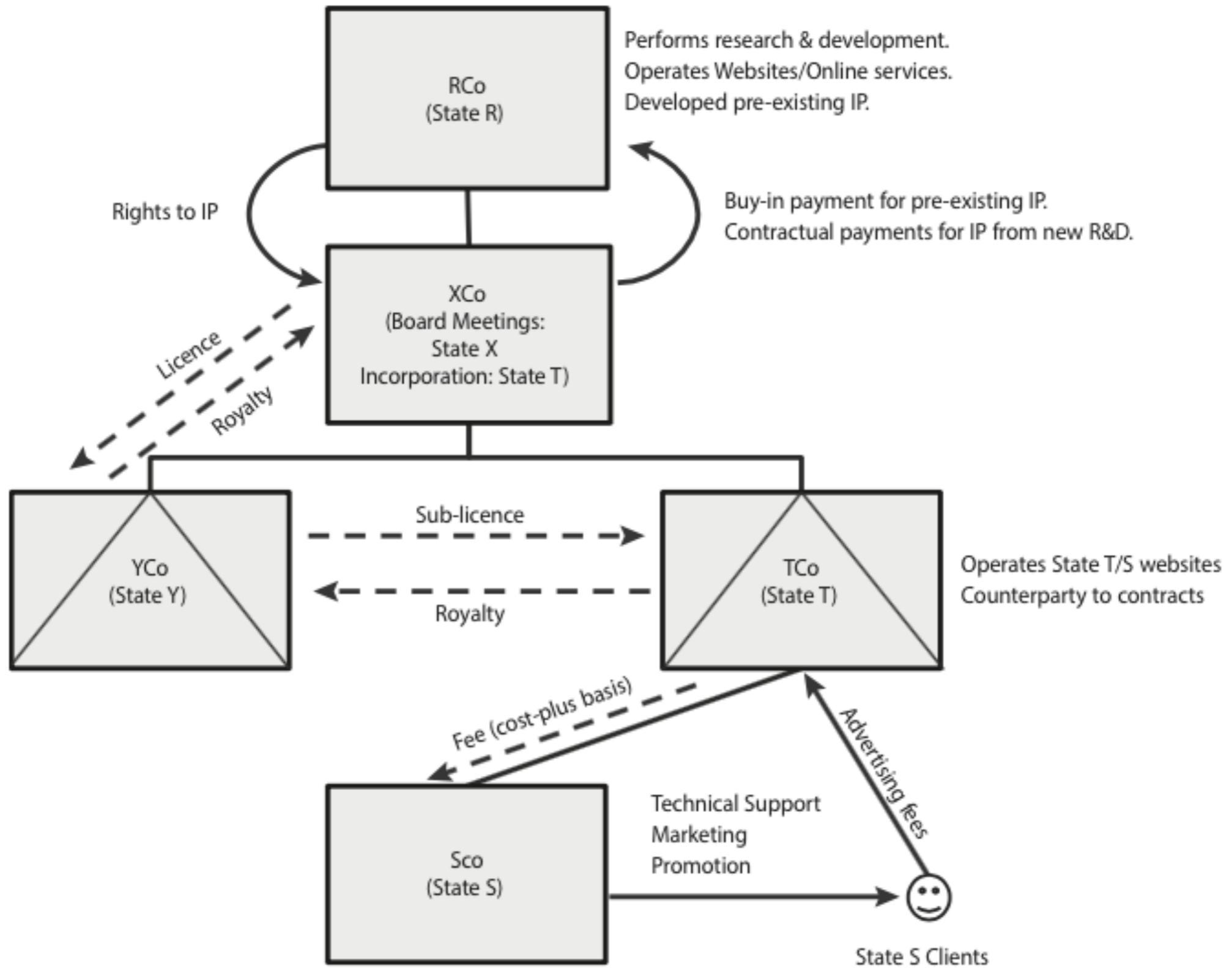


Figure B.4. Internet app store

