



IMS  
Accounting, Tax  
& Consulting



WORLD TRADE CENTER  
RENNES BRETAGNE

# Doing business in the U.S. : Practical matters & Tax reform

DECEMBER 2, 2019

# Introduction

FOUNDED IN  
**1998**

**SIX**  
OFFICES  
WORLDWIDE

MORE THAN  
**500 CLIENTS**  
ASSISTED SINCE  
OUR CREATION

## OUR SERVICES



**IMS**

Accounting, Tax & Consulting

Accounting

Tax

HR



**IAS**

Certified Public Accountants

Audit



**EXELMANS**

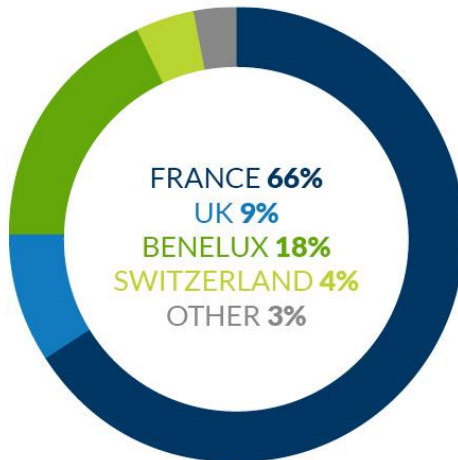
Transaction Services

Transaction Services

M&A Due Diligence

# Our Clients

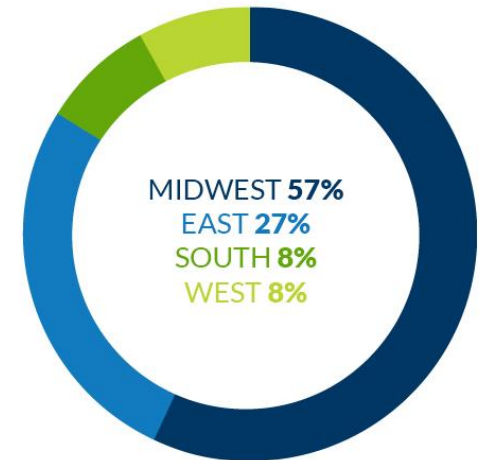
CLIENTS PER COUNTRY OF ORIGIN



CLIENTS PER INDUSTRIAL SECTOR




CLIENTS PER U.S. TERRITORY



# Agenda

1. Set Up Process
2. Services on U.S. Soil : Tax Consequences
3. Sales tax - important developments: Economic Nexus
4. Structure
5. Business Model
6. Intra-Group Tax Issues
7. Mobility - employment



INTERNATIONAL MANAGEMENT SOLUTIONS

# Set Up Process

SECTION 1

# The Set Up Process

- **Exploration**
  - Trade shows
  - Market research
- **Export**
  - Direct
  - Indirect
- **Subsidiary**
- **Acquisition / Transaction**







# Services on U.S. soil

SECTION 2

# U.S. Related Activities

## On-site services

- Installation
- Training
- Maintenance

## People in US

- Sales support
- Tech support

## Assets

- Inventory
- Machine





# Tax Consequences

## Federal

- Permanent Establishment
- W8 Requirement to avoid withholding

## State

- Nexus
- Are not a part to the double taxation treaty
- Registration and Filing

Ratio of gross dividends to	Cash flow (2)	Net income (3)	Maximum retention (4)
	28.9	34.8	26.2
	30.5	37.5	34.1
	31.3		40.2
	32.0		41.0
	30.5		38.4
	39.7		35.0
			26.2

# Tax Consequences: State

## State Nexus

- Sales tax
  - Final clients
  - Distributor — reseller
  - Services vs Goods
- Income tax
- Payroll tax
  - Federal
  - State



# Tax Consequences: Federal

## Federal: Permanent Establishment

- Income tax
- Payroll tax



Time for a U.S. Structure!





# Sales tax - important developments: Economic Nexus

# New sales tax nexus standards

## **Before South Dakota v. Wayfair**

- Physical presence required
- Competitive advantage for online merchants

## **After South Dakota v. Wayfair**

- Economic nexus standards adopted in app. 30 states
- Generally (cf. South Dakota):  
\$100,000 in sales or 200 transactions in a calendar year
- Practical implications still unclear







# Structure

## SECTION 4

# U.S. Structure

- Branch or subsidiary
- Corporate entity, tax status
- Stockholder
- State of incorporation



# U.S. Structure

## Keep It Simple

- Inc
- Delaware
- 100% owned by parent company





# Business Model

## SECTION 5

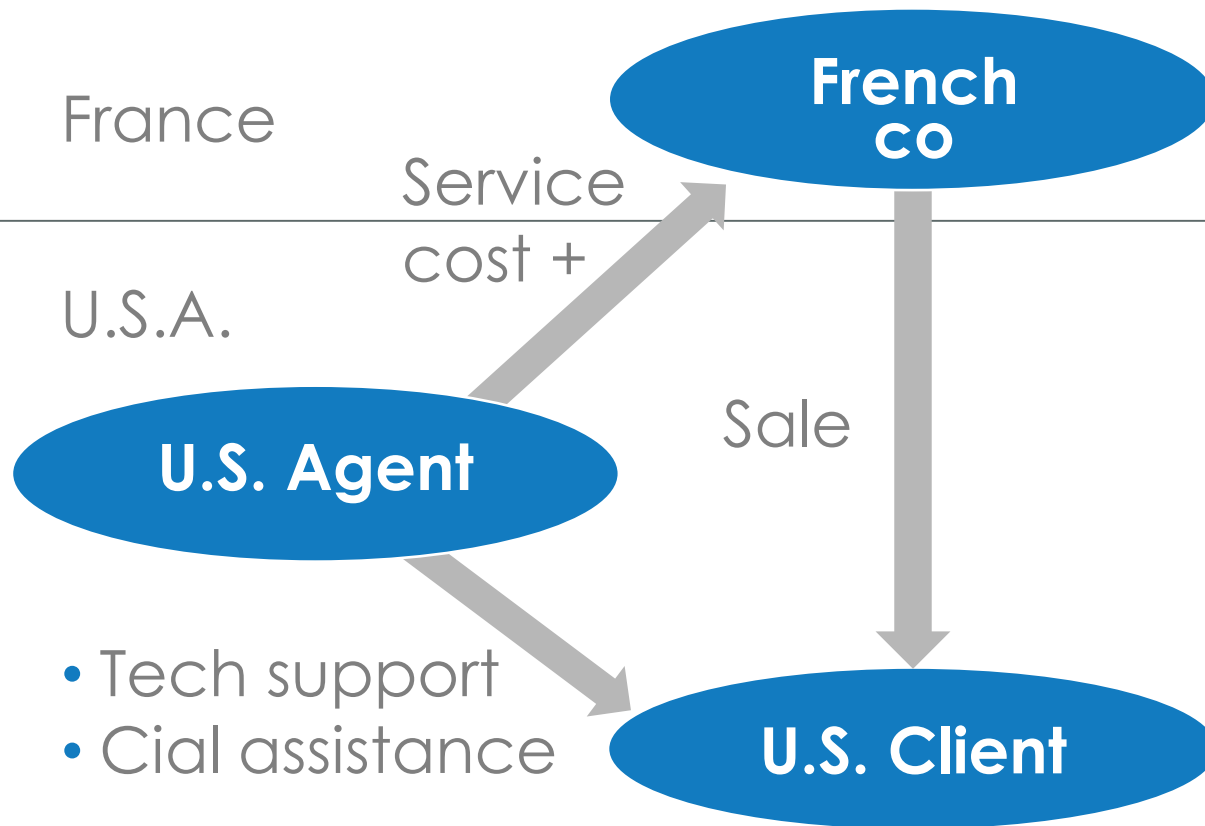
# Subsidiary Role



**Distributor  
or  
Agent**



# Agent model



# Distributor model

France

**French  
co**

Sale

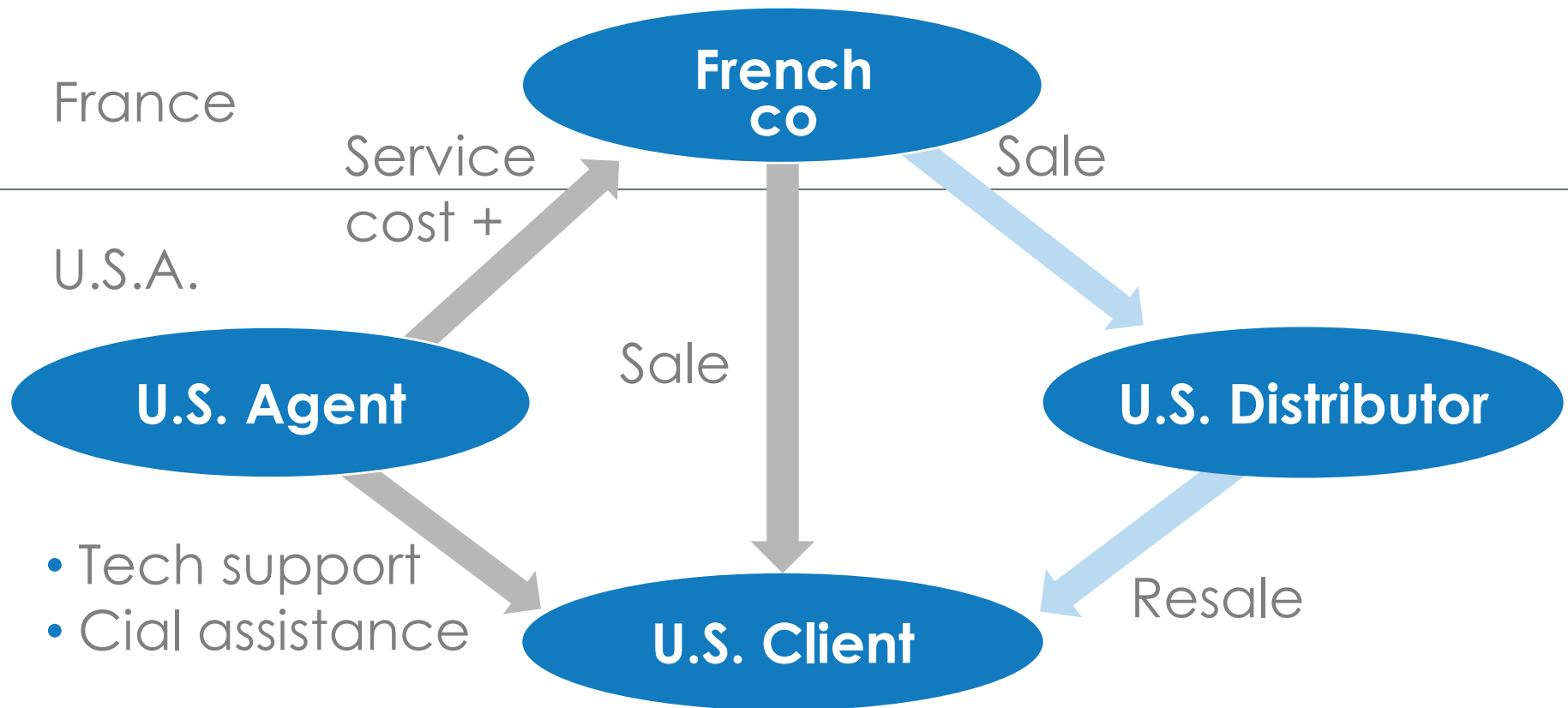
U.S.A.

**U.S. Distributor**

**U.S. Client**

Resale

# Business model summary



# Subsidiary Role and New tax law

## Consider

- Income tax rate from 15% - 35% to flat 21% + state(27%)
- Loss carried forward use limited to 80%
- No more Carry Back

## Consequences

- Tax will go up for small cost + (agent)
- With costs + early losses are transfer to a higher tax jurisdiction and are better used.
- High time to use all possible carry back



# Intra-Group Tax Issues

## SECTION 6



## Intra-Group Tax Issues

### Related Transactions

1. Purchase of goods and services from the parent company or affiliates
2. Interest
3. Royalties
4. “Management” Services
5. Dividends

### Usual Questions

1. Transfer pricing legislation
2. Withholding
3. Limited tax deductions

# Transfer Pricing 4/4

Prod Costs = \$800

Margin = \$0

**French  
co**

Margin = \$400

Sales Price = \$800

Sales Price = \$1200

Margin = \$1200

**U.S. Subsidiary**

Margin = \$800

Sales Price = \$2000

Sales Price = \$2000

**U.S. Client**

# Transfer-Pricing and New tax law

## Consider

1. Flat income tax rate 21%
2. Interest deduction greatly improved:
  1. No limit below 25 Millions sales
  2. 30% of Ebitda above

## Consequences

1. May be more beneficial to transfer profit to USA
2. Financing structure
  1. Loan may be more beneficial than capital
  2. Thin capitalization risk



# Mobility-Employment

## SECTION 7

# Human Ressources

## 1. Payroll

1. Engagement Letter/ Agreement/Employee Handbook
2. Hiring/Firing

## 2. Keeping employees

1. Salaries
2. Benefits (Paid vacation- Retirement plan- Health Insurance)

# Differential

## 1. Living Costs

## 2. Tax

## 3. Social

CFE is not recognized by  
Obamacare  
(Humanis – Well away)

Penalty gone in 2019



Caisse des Français de l'Étranger  
*La Sécurité sociale des expatriés*







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# Thank You!

## More questions?

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