

| Jackson Walker, LLP

Business Immigration Under the Trump Administration 2.0

Presented by:

Sang M. Shin
Partner
Jackson Walker LLP

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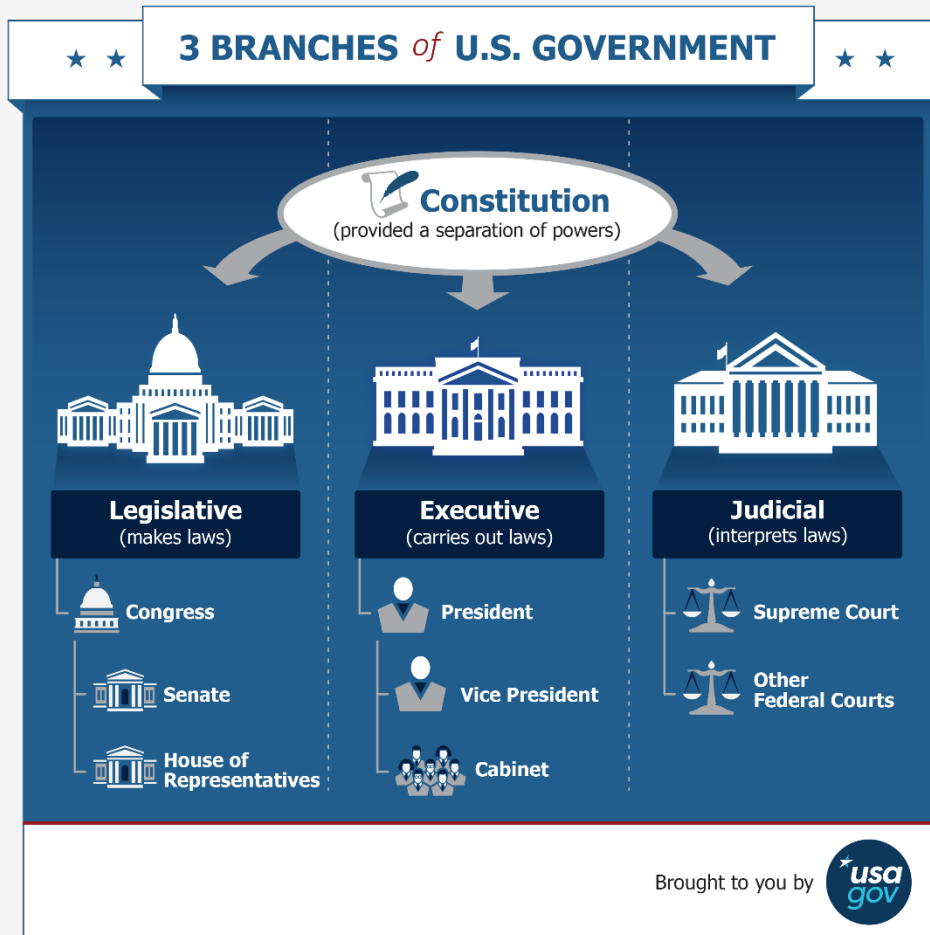
DISCLAIMER

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Overview

- U.S. Civic and Government Structure
- Brief Overview of Applicable Trump Executive Orders
- How this Impacts Immigration Strategy/Policy

Civics Revisited...



- US Department of Homeland Security (Benefit-giving arm)
 - US Citizenship and Immigration Services (“USCIS”)
 - US Customs and Border Protection (“CBP”)
 - Immigration & Customs Enforcement (“ICE”)
- US Department of State (Keep the bad people out)
- US Department of Labor (labor-related processes)

Executive Orders

- Enhanced Vetting for Visa Applicants
- America First Trade Policy (Return of “BAHA”)
- Protection Against Invasion

Sponsoring Foreign Workers

- U.S. Companies generally seek to hire U.S. Workers
- Difficulty finding U.S. workers in certain fields (i.e. STEM, technical or even skilled-worker positions).
- Many of the brightest and technically competent may be from different countries/backgrounds

Nonimmigrant Visa Types

Visa	Purpose
A	Diplomat/foreign government official
B	Visitor for business or pleasure
C	Transiting the U.S.
D	Crewmember (Ship/Airline)
E1/E2 E-3	Treaty trader/Treaty investor/Australian Specialty Occupation
F	Student
G	Diplomats/government officials who work for international orgs in the U.S.
H-1B/H- 1B1	Specialty occupation work visa/Specialty Occupation for Chile/Singapore
I	Journalist/Media
J	Exchange Visitor (work/study program)
K	Fiancee Visa
L	Intracompany Transferee

Visa	Purpose
M	Vocational Visa
NATO	Foreign military personnel stationed in the U.S.; Employee of NATO
O	Extraordinary ability
P	Artists, Entertainers, Athletes
Q	Cultural Exchange
R	Religious Worker
S	Individual who has assisted law enforcement as a witness or informant
T	Victim of Human Trafficking
TN	USMCA Professionals
U	Victim of Criminal Activity

Visa Options for Cross Border Trade/Investment

- Temporary Visa Options – B-1 after sales, E-1, E-2, H-1B, H-1B1, E-3, H-2B, L-1, O-1, TN and various EADs
- Industry-Specific needs (construction, manufacturing, agriculture, logistics, hospitality) v. (energy, IT, Medical, aerospace).

Practice Pointers

- Stay updated on policy changes and executive orders
- Prepare for potential delays and increased scrutiny and enforcement (E-Verify requirement?)
- Potential reduction in visa numbers
- Increase communication with clients
- Monitor developments in political policies and stances that will impact visa categories
- Expect tailored advice depending on industry and visa program.
- Impact of America First Policy Directive
- Proactive Planning and Strategy required

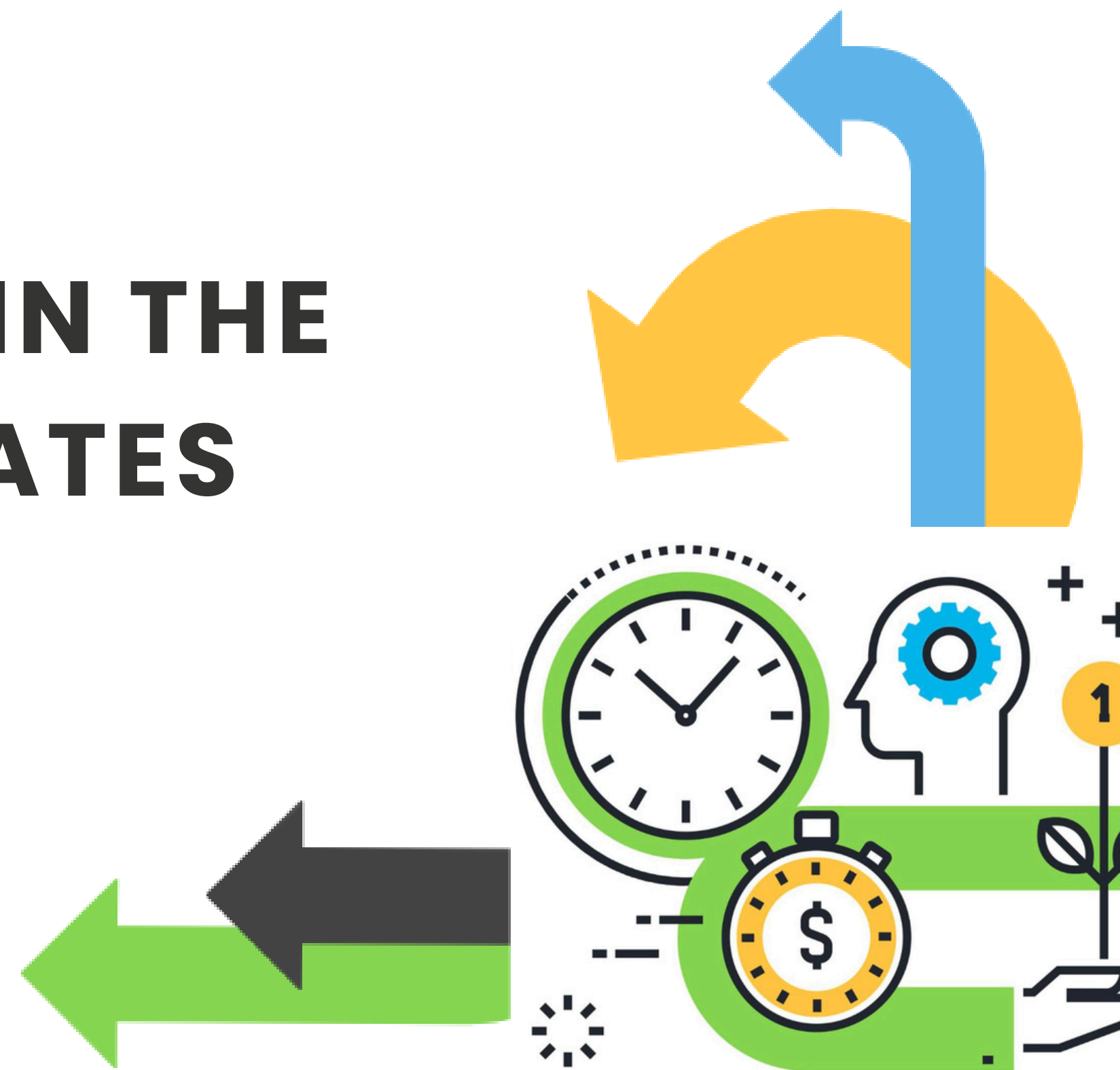
Questions





EMPLOYING IN THE UNITED STATES

TABS



TOPICS



Introduction to TABS



Setting up an entity



When to Hire in the United States



Hiring/Recruitment Best Practices and Legal Guidelines/Trends in Hiring



Onboarding Considerations



Payroll Setup



INTRODUCTION TABS INC

TABS provides the assistance and guidance needed when starting or expanding your business in the U.S. and to successfully enter and navigate the U.S. market. TABS offers back-office services essential for U.S. subsidiaries that can be tailored to your business's specific needs.



INTRODUCTION TABS INC

One-stop shop for all back-office needs in the United States. TABS offers a comprehensive suite of services which we can tailor to your business specific needs.



SETTING UP A US ENTITY



Business Development Perspective

- Needed to apply for Visas
- Drives more sales
- Some US clients require a US entity in order to do business with you, like Walmart
- Easier to get Insurances
- Makes receiving payments easier
- Fundraising with US Inc vs EU HQ



Risk-Averse Perspective

- Protecting your European HQ from creating legal and tax exposure in the US
- Isolating the risk in a separate US entity
- Due diligence
- Payroll funding and potential complications (NSF)

SETTING UP A US ENTITY



When having a physical presence

- Warehouse
- Physical Office
- Employees (even through an EOR/PEO).



When creating a sales tax presence / economic presence

SETTING UP A US ENTITY



WHEN TO HIRE IN THE U.S.



Importance of a local presence

Many companies and/or consumers prefer local contacts, service and "American-made"



Approach to hiring different types of positions



From first Sales manager to administrative staff



Utilizing recruitment agencies and navigating the hiring market

BEST PRACTICES & LEGAL GUIDELINES



Narrowing down the location of the position is important

- Remote work is feasible, though suggestion is to start in close proximity to where the clients are.



Consider federal, state and even local laws

- New York & California amongst the top states with most complicated laws to consider
- Neighboring states are following
- Salary range posting in job ad
- Consider Equal Employment Opportunity & Disability laws



Refrain from asking (too) personal questions, even if just to engage in conversation



Consider differences in workforce generations

- Benefits may be more important to older generations, whereas flexibility and good company values are important to younger generations



Be mindful of the sales technique in the US; US candidates focus more on the story and selling versus transparency and openness



Timeline to hire and notice period

ONBOARDING CONSIDERATIONS



Offer letter versus Employment Contract ("at-will")



Consider benefits, Paid Time Off, Sick Leave laws, exempt status, when creating the offer letter



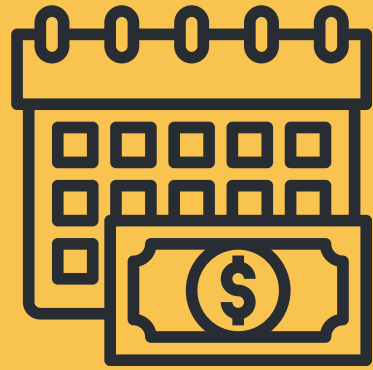
Employee onboarding paperwork

- Varies by state



Cross-cultural training: consider bringing the new hire to HQ for in-person training

PAYROLL ONBOARDING IMPLICATIONS



Payroll setup considerations

- Working with a payroll vendor
- Required paperwork: EIN, bank account...
- Payroll frequency
- Required insurances
- Tax registrations



Ongoing payroll matters

- Taxability on individual insurance, allowances (internet/cell phone) and expenses (e.g. relocation expenses are taxable!)
- Payroll funding and potential complications (NSF)

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QUESTIONS?

THANK YOU !!!

You can contact us at
laura@tabsinc.com and bizdev@tabsinc.com



T A B S

What to be aware of when contracting with a US counterparty



Marieke Witkamp

International Arbitrator & Dutch Commercial Judge

Agenda

- Intro Drafting & Negotiating Dispute Resolution Clauses
- Applicable Law
- Forum choice – court or not?
- Key differences between US and Dutch litigation practices
- Other ADR options

Intro Drafting and Negotiating Dispute Resolution Clause

- Contractual agreement on a dispute resolution mechanism and applicable law
- Gets little attention in contracting process
- Factors influencing choice of dispute resolution mechanism:
 - Business relationship
 - Bargaining power
 - Simple vs more elaborate (multi-tier) clauses
 - Costs

Applicable Law

Common Law

UK & Former British Colonies

- * Primary source of law: case law
- * Focus on Hearing & Oral Advocacy
 - * Adversarial system

Civil Law



- * Primary source of law: Statutes
- * Focus on Written Submissions
 - * Investigative judge

Forum Choice – Litigation vs Arbitration

LITIGATION

- Case decided by impartial judges. But: in which country & language? Home turf or not?
- The Dutch Courts: highly ranked court system, costs generally lower than arbitration + English Speaking Court NCC
- Forum often influences applicable law on the contract (civil vs common law)
- Enforceability judgment may be issue
- Be aware of differences between Dutch and US litigation practices

Key Differences between US and Dutch litigation practices

Dutch Practices

1. Efficient & cost-effective procedure
2. No/hardly any discovery
3. Focus on written submissions
4. The court facilitates settlement discussions

US Practices

1. Less straight-forward litigation process
2. Discovery
3. Focus on evidence presentation at trial
4. Jury trial if requested by party
5. In tort cases: damage awards higher than in NL

Forum Choice – Litigation vs Arbitration

ARBITRATION

- **Private** and **non-national** dispute resolution by **party-appointed** arbitrators
- Institutional Arbitration (AAA-ICDR, NAI)
- Ad Hoc Arbitration (often in maritime industry – HMAA)
- Party autonomy & Flexibility
- NY Treaty for enforceability awards

Other Alternative Dispute Resolution Options

ADR is big in the US

- Negotiations / Conciliation
- Neutral Evaluation
- **Mediation**

Thank you

Marieke Witkamp LLC

M: marieke.witkamp@outlook.com

W: www.mariekewitkamp.com

