

# Expanding in the US Market - legal considerations -

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# Entering the Market

- **Importers**
  - Sporadic Success
- **Distributing Channels**
  - Distributors
  - Agents and Representatives
  - Franchises
- **Subsidiary Operation**
  - Forming a Subsidiary
  - Acquiring a Business

# Local Presence

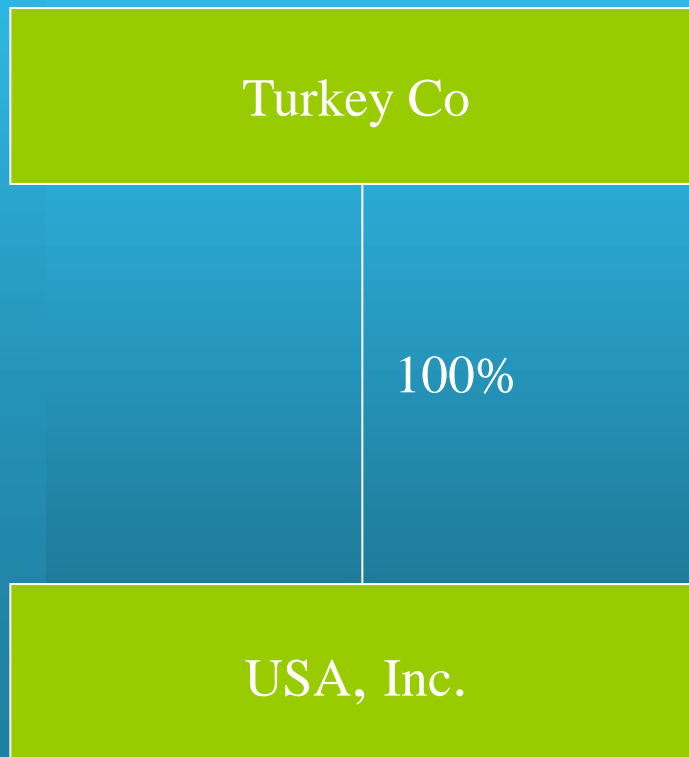
- **Permanent Establishments**
- **Corporations**
- **Partnerships**

# Permanent Establishments

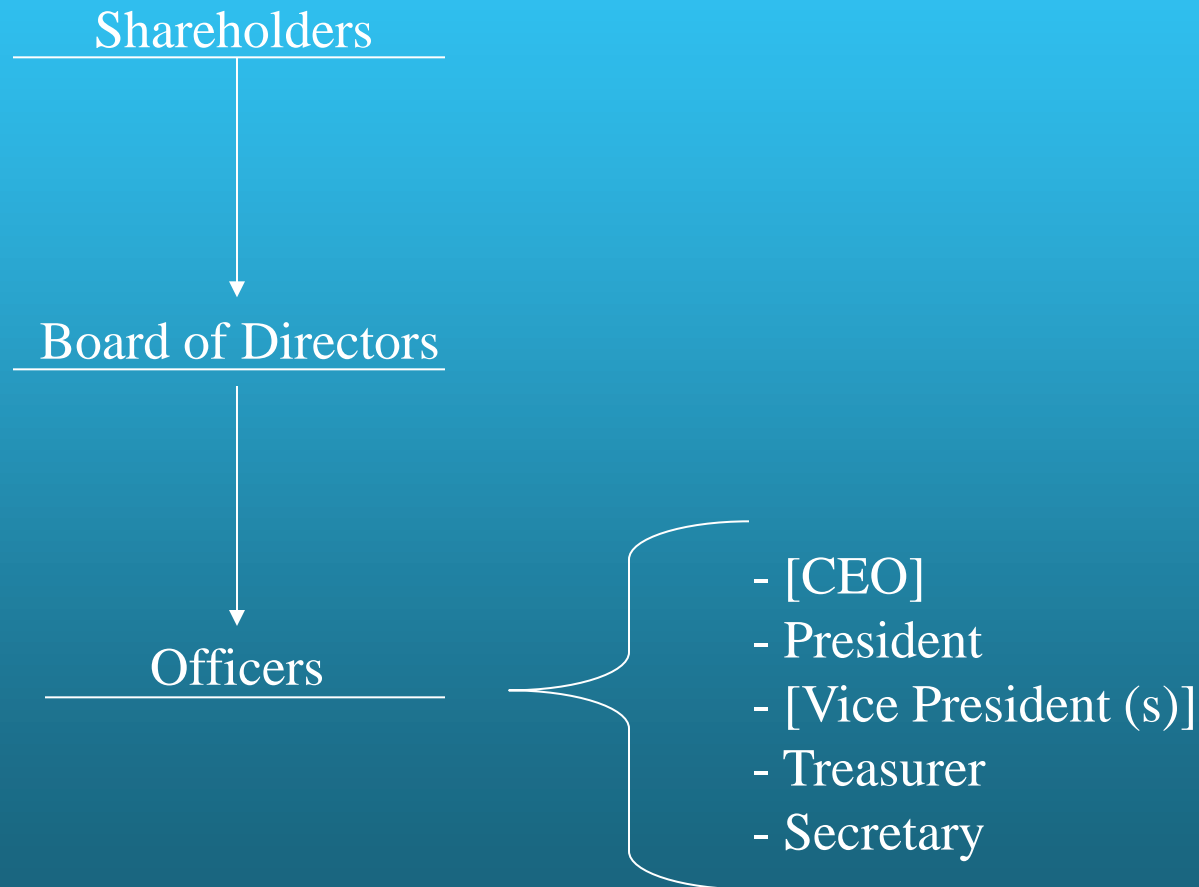


USA

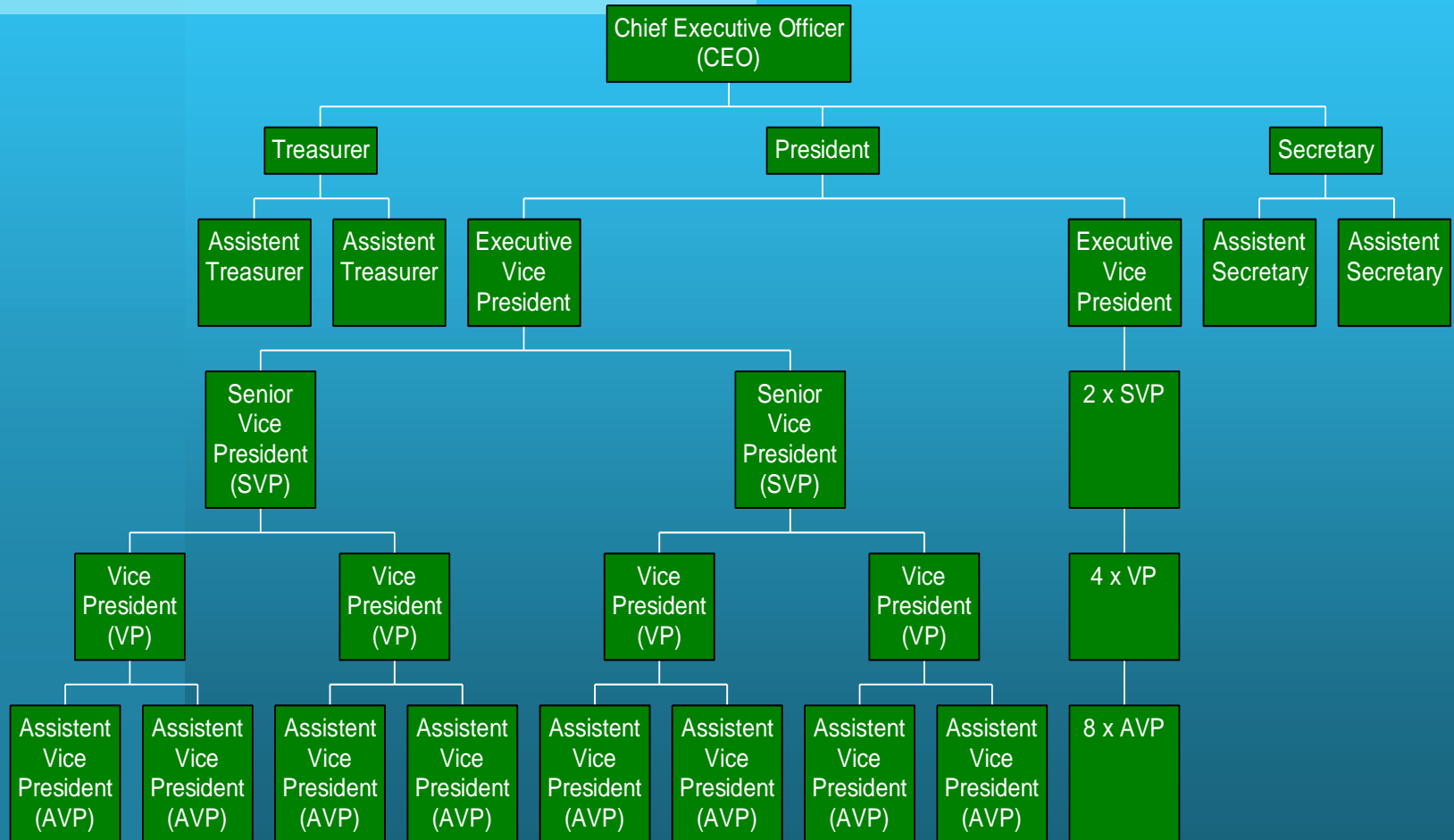
# Corporation



# Organization of a Corporation



# Officers



# Corporation Taxation

**Taxable Income**                    **\$ 100.00**

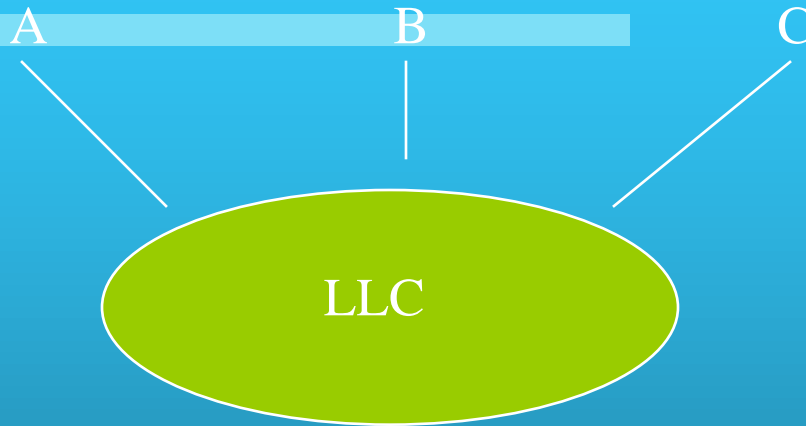
USA – State (6 %)	- \$	<u>6.00</u>
		\$ 94.00
USA – Federal (35 %)	- \$	<u>32.90</u>
		\$ 61.10
USA – Withholding (15%) – [Individuals (25%)]	- \$	<u>9.16</u>
		<b>\$ 51.94</b>



# Partnerships

- General Partnership
- Limited Partnership
- LLC

# Limited Liability Company



# Partnership Taxation

**A B C are taxed directly**

Taxable Income	\$ 100.00
USA – State	<u>- \$ 6.00</u>
	\$ 94.00
USA – Federal (35 %)	<u>- \$ 32.90</u>
	\$ 61.10

# Corporate Acquisitions

## Letter of Intent

- Covenant not to Negotiate
- Purchase Target
- Purchase Price
- Other Terms
- Break-up Fee
- Exclusivity
- Confidentiality

# Due Diligence

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- **Technical**
- **Financial**
- **Legal**

# Top 10 List of Due Diligence Problem Areas

1. Inadequate bad debt and inventory reserves.
2. Improper allocation of non-recurring items.
3. Tax Issues.
4. Internal control weaknesses.
5. Lack of employment contracts for key people.
6. Assignability of key contracts.
7. Excessive related party transactions.
8. Management estimates and representation.
9. Off balance sheet items.
10. Financing agreements – compliance with covenants

# Purchase Agreement

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- **Share / Asset Deal**
- **Purchase Price**
- **Financing**
- **Payment Terms**

## ● **Seller Warranties**

- Corporate Organization
- Balance Statements
- Litigation
- Title
- Contracts
- Insurance
- Environment



## ● Covenants

- Ordinary Operation of Business
- Agreement with Various Employees
- Third Party Consents

## ● Site Selection – Greenfield Investments

- Qualitative Criteria +/-
- Quantitative Criteria \$\$
- Investment Incentives
- Process
- Contracts

# Common Causes of Liability

- Contractual Liability
- Product Liability
- Piercing the Corporate Veil