

# Case study

## Facts and assumptions

- French national
- Invention new medical device
- Funding from the US
- Protect/license IP
- License manufacturing, distribution and sales

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## Economic considerations

- Cost effective, mean & lean structure
- Cheap cost structure, cheap products
- French brainiac only exploits/develops the idea(s)
- IP company licenses IP to HoldCo
- HoldCo sublicenses the IP to third parties

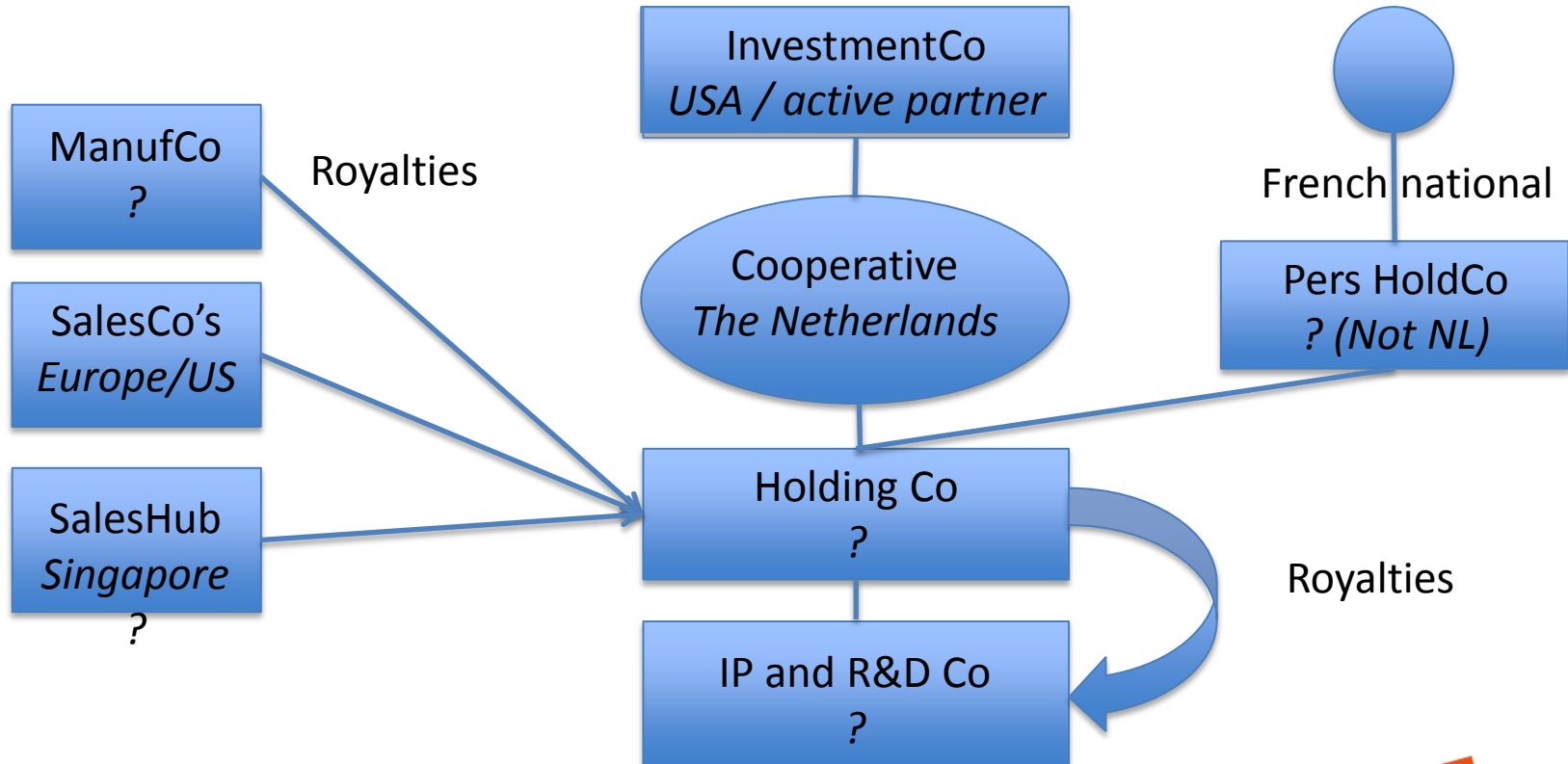
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## Main issues

- Location holding company
- Location IP company
- Location R&D company
- Tax planning French national
- US tax considerations
- Operating and establishment expenses
- Conclusion

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## Possible structure



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## Location holding company: the Netherlands. Why?

### *Tax considerations general:*

- Tax rate 25% (20% on first euro 250k), but small tax base
- Extensive network of 90+ tax treaties
- APA/ATR to provide certainty in advance, also multinational
- Fiscal unity regime
- 30%-ruling for expatriates, ie no capital gains tax regarding substantial shareholding in foreign resident companies
- White listed jurisdiction

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## Location holding company: the Netherlands. Why?

### *Tax considerations dividends:*

- 0% dividend withholding tax from EU countries
- 0-15% dividend withholding tax from non-EU countries
- Participation exemption, 100% exemption on dividends, foreign exchange results and capital gains
- No CFC rules but participation exemption is not applicable to portfolio and passive, low taxed investments
- 15% Dutch dividend withholding tax, but 0% Dutch dividend withholding tax to foreign members Cooperative in case of active (non-abusive) investments

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## Location holding company: the Netherlands. Why?

### *Tax considerations royalties:*

- No capital tax/stamp duties
- No Dutch withholding tax on (outbound) royalties
- Extensive network of 90+ tax treaties
- Low WHT rates on inbound royalties from EU/tax treaty countries

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## Location holding company: the Netherlands. Why?

### *Tax considerations substance to obtain APA/ATR:*

- At least 50% Dutch resident directors, French national
- Dutch directors/employees have professional knowledge
- Decisions of the board are taken in the Netherlands
- (Main) Bank accounts are held in the Netherlands
- Bookkeeping is carried out in the Netherlands
- Compliant with Dutch tax laws
- Office address in the Netherlands
- To the best of its knowledge, not a resident abroad
- Genuine risk/equity



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## Location IP-company: Ireland. Why?

- Protection IP?
  - ✓ Member of World Intellectual Property Organisation
  - ✓ Party to e.g. WIPO Convention, Berne Conventions, etc.
- Low corporate income tax rate?
  - ✓ Normal rate 12.5%
  - ✓ 15 years amortization period for acquisition expenditure intangibles
- No dividend withholding tax on dividends to DutchCo
- Application Dutch participation exemption? Still safe.
- Substance issue? Combination with R&D activities
- No Irish VAT. In the Netherlands: VAT reversed charge

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## Location R&D company: Ireland. Why?

- Well developed MedTech industry to 100+ companies
- Skilled and educated workforce, 27,000+ employees
- 2<sup>nd</sup> largest exporter of MedTech products in Europe
- Stable labour costs, high productivity
  
- Member of the EU
- Tax treaty with the Netherlands
- Corporate income tax rate of 12.5%
- R&D tax credits 25%

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## Tax planning French national; ask Robert!

- What does his wife want?
- No tax exit issue in France, no value
- Salary? Shares? Sources of income needed?
- Emigration to Malta? EU, max tax
- Emigration to UK? EU, non-dom tax
- Emigration to the Netherlands?
  - Application 30%-ruling, max 36.4%
  - No tax on investment income
  - Sale of non-resident company tax free

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## Tax issues US investor; ask Douglas!

- Non flow trough entity
- Timing & control income recognition
- Favourable tax rate/treaty (Netherlands, okay)
- Easy exchange controls (Netherlands, okay)

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## Establishment and operating expenses

- Dutch Cooperative; incorporation costs euro 2.000
- Dutch BV; incorporation costs euro 500
  - No capital requirement
- Irish company; incorporation costs 500
- Legal contracts;
- Tax advice;

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The Netherlands. Why? Party with LIMES international!



tax + expat

**LIMES**  
international

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**Location holding company: the Netherlands. Where else?**

tax + expat

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Thank you!