

INSIGHT



Introduction to the AGN Technical Resource Center

Inside this issue, discover the difference between the TRC and the AGN Sharegroups. Read articles from our TRC experts on a variety of topics and hear about AGN members' experience of using the TRC and their success stories

For Technical Resource Center services, please click on the Member Benefits tab at agn.org.

For all inquiries, please contact Faiz Jaffar (fjaffar@agn.org).

INSIGHT

Contents

Technical Resource Center vs Sharegroups	02
IRS Continues to Pursue the Self-Employment Tax among Limited Partners	03
A Balancing Act Between Transparency and Practicality	04
US Persons Providing Services in Canada	05
Examining the Retail Delivery Fee (Or is it a Tax?)	05
AGN Member TRC Success Stories	06

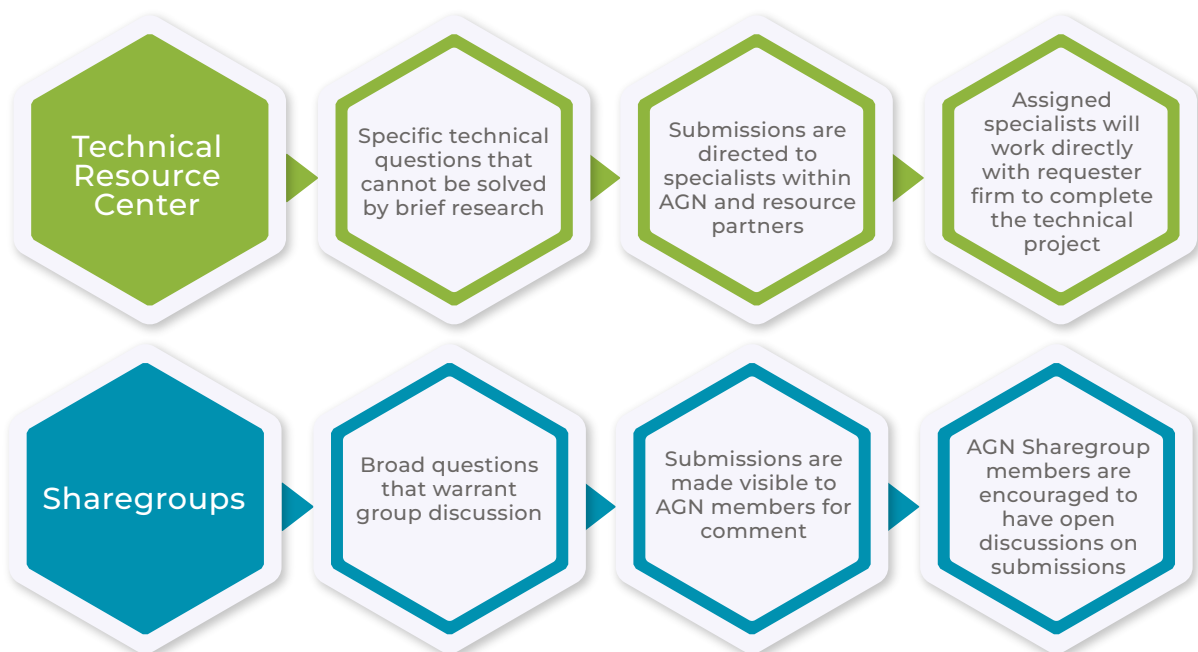
Technical Resource Center vs Sharegroups



The AGN Technical Resource Center (TRC) is a service made for firms of all sizes to connect with technical experts required for challenging projects. Our industry's technical environment is rapidly evolving, and it can be tough to keep up with the technical and niche expertise required to meet client needs. Our TRC experts help meet those needs in an expanding range of specialisms and industries. Use the TRC to:

- ▶ **Submit challenging, niche, and technical questions.**
- ▶ **Receive timely response from vetted AGN members and resource partners**

The AGN TRC is designed to work in conjunction with the AGN Sharegroups. Look at the comparative graphic below to see the differences.

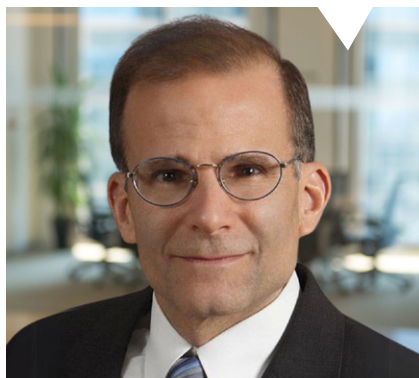


For more information on the TRC and to submit TRC projects, click the link below.

[Submit your project](#)



IRS Continues to Pursue the Self-Employment Tax among Limited Partners



JOE NICHOLA,
TAX PARTNER



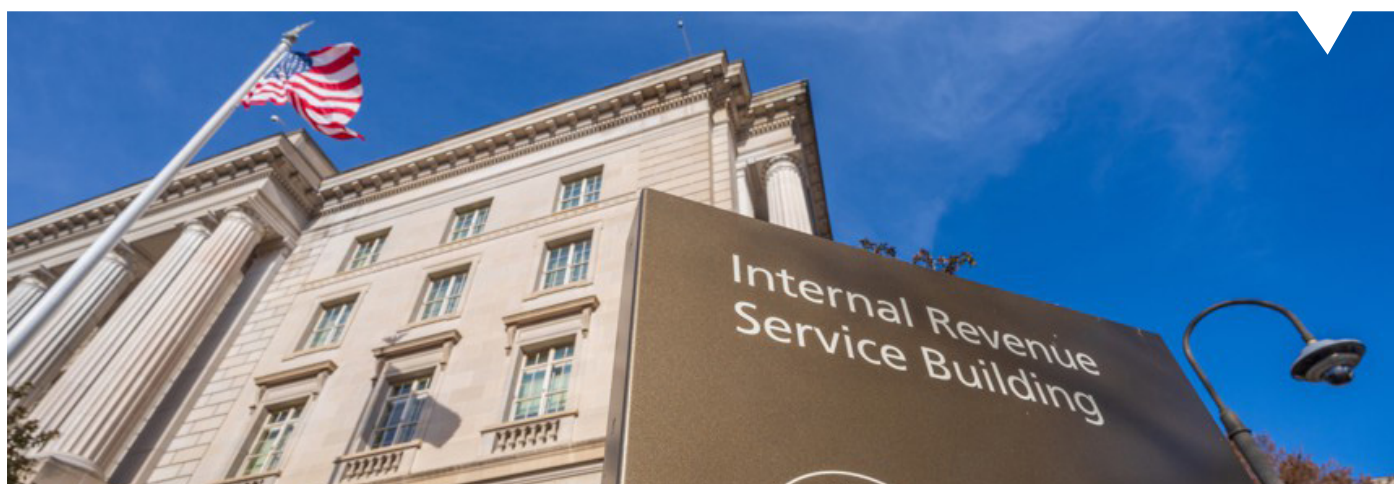
In late-2023, the Tax Court decided *Soroban Capital Partners v. Commissioner*, 161 T.C. No. 12 (November 28, 2023), holding that a limited partner in a state limited partnership may be subject to self-employment tax on his or her distributive share of income, despite the limited partner exemption pertaining to limited partnerships under Section 1402(a)(13). The Court ruled that the determination requires a functional analysis of the partner's activities, relying on *Renkemeyer v. Commissioner*, 136 T.C. 137 (2011) (involving an LLP) and *Castigliola v. Commissioner*, T.C. Memo 2017-62 (2017) (involving an LLLP). *Soroban Capital* argued that those cases were not relevant, since they did not involve state limited partnerships. The Court rejected that argument.

One might recall that the IRS issued proposed regulations in 1997 that have not been finalized or removed. They remain proposed, and state that an individual (such as a limited partner or LLC member) is not treated as a limited partner for purposes of the exemption under Section 1402(a)(13) if the individual (1) has personal liability for partnership debts, (2) has authority to contract on behalf of the partnership, or (3) participates in

the partnership's trade or business for more than 500 hours during the taxable year.

The IRS continues to rely on this proposal in practice and has taken positions that go beyond the proposed regulation in a significantly aggressive effort to review partnership returns, focusing on the self-employment tax. It is currently litigating several cases, demonstrating the serious nature of its posture. For example, the identical issue arose in *Sirius Solutions LLLP v. Commissioner*, Docket No. 30118-21 (February 20, 2024), which is now before the Fifth Circuit.

“ It behooves tax practitioners to take note. And, as a reminder, the IRS posture is not limited to limited partnerships. LLCs and LLPs are in the bullseye, as well as similar types of entities, such as the LLLP. ”



A Balancing Act Between Transparency and Practicality



The Corporate Transparency Act's (CTA) mandate to disclose beneficial ownership information (BOI) has recently ignited a debate. In principle, the CTA's reporting requirement aims to empower authorities to identify shell companies often employed in money laundering, tax evasion, and terrorist financing.

However, a stark disconnect exists between theory and practice. While US Rep. Nydia Velazquez, the ranking Democratic member of the House Small Business Committee, contends that "reporting should be relatively simple," small business owners express a different perspective.

Reports suggest that approximately 32 million businesses fall under the CTA's purview. Notably, a significant portion of these businesses are:

- **Unaware of the requirements:** Many lack crucial knowledge about the CTA's regulations.
- **Resource-constrained:** Even with awareness, many businesses lack the resources to comply.

Lawmakers from both parties have echoed these concerns, highlighting the challenges faced by their constituents. Additionally, data privacy anxieties have emerged among small business owners. The Treasury's Financial Crimes Enforcement Network, the designated filing repository, has issued warnings regarding fraudulent solicitations exploiting the CTA.

The critical question remains: what lies ahead? The Small Business Administration estimates that small businesses employ nearly

47.5% of the American workforce, constituting a cornerstone of the US economy. While there is broad agreement on the CTA's intended purpose and the benefits of BOI disclosure, the practical challenges are undeniable.

The House Small Business Committee is expected to address these practical concerns and discuss potential solutions. Ultimately, both sides seem to acknowledge the act's theoretical benefits, contingent upon successful implementation.

Please contact our Global Business Services team with questions regarding the Corporate Transparency Act or any other international tax topic.

To read the original article as well as more from McGuire Sponsel [click here](#).

US Persons Providing Services in Canada



GLEN MACMILLAN
TAX PARTNER

Adams + Miles

US independent contractors often provide their services through LLC's or S corporations. While these entities may be attractive for US tax purposes, the opposite is true when services are rendered in Canada. When a US person provides services in Canada through an LLC or S corporation, the company is required to file a

Canadian corporate income tax return. This filing requirement applies even if the income is exempt from Canadian taxation by virtue of the contractor not having a permanent establishment in Canada. Furthermore, services provided by the contractor through the LLC or S corporation are generally considered to represent employment duties exercised in Canada and this relationship may give rise to adverse payroll compliance issues for both the company and the contractor.

“Canadian compliance can be substantially simplified if a US individual contracts and invoices for Canadian services directly and leaves the LLC or S corporation out of Canada.”

Individual treaty-based tax returns are far more straightforward to prepare than corporate tax returns and are not generally subject to late filing penalties. Payroll non-compliance issues are also avoided because an individual cannot be an employee or him or herself.

More information about non-residents providing services in Canada can be found on CRA's website at [Rendering services in Canada - Canada.ca](https://www.cra.ca/Rendering%20services%20in%20Canada)

About the Author

Glen MacMillan is a tax partner at Adams + Miles LLP located in Toronto, Canada. Glen is former chair of the AGN International Tax Committee (2016 to 2019) and an active contributor to AGN knowledge sharegroups.

Examining the Retail Delivery Fee (Or is it a Tax?)



[Retail Delivery Fees \(RDF\)](#) are a relatively new concept. Most states refer to it as a fee, a distinction that allows lawmakers to avoid the voting process, but it is very similar to a tax. Colorado was the first state to roll out the Retail Delivery Fee in July 2022.

Similar to [economic nexus](#), as soon as one state got on board, more followed. Minnesota's RDF became effective July 1, 2024; and Illinois and New York are also in talks of adding similar fees. For Colorado, the roll-out was a bit bumpy, so Minnesota and other states have taken notes in hopes to not confuse retailers as much. It is important to remember, as most things with sales tax, details will vary by state, so you must understand the specific

rules associated with each state when applying the RDF.

For Colorado the RDF is \$.28. Colorado has a small business exception whereby any business with less than \$500,000 in sales into the state of Colorado is exempt. For Minnesota the RDF is \$.50 on any transaction of tangible personal property greater than \$100.

The RDF applies once a business has nexus in a state, creating an additional obligation when registering for sales and use tax. Many businesses are concerned with adding another tax or fee to their products so are questioning if they should self-remit instead of collecting the funds from consumers. But this is not an option

in every state. Some states require the RDF to be collected from the customer. In terms of remitting the fee, in Colorado there is a separate return to file. Be aware that many of the so-called "automated" sales tax solutions don't file these non-sales tax returns.

Much about RDF remains undetermined or varies heavily between the two active states. As more jurisdictions add RDFs as an additional way to collect funds, managing your compliance will only become more complex.

[Listen to our recent webinar](#) to learn more about RDFs or [talk to TaxConnex](#) for info on keeping your business fully compliant.

AGN Member TRC Success Stories



“Of all the AGN firms, we are likely the farthest geographically from a foreign transaction. But that doesn't stop our clients from doing lots of business in Canada and Mexico. Access to the TRC lets us compete with all the big firms that practice in our area and more importantly, give great service to our clients.”

Lance Weiss, SFW Partners



“In accounting, it is essential to collaborate. Last fall, the September 15th deadline was fast approaching and through collaborating with the Technical Resource Center, their knowledge on a Section 1202 topic enabled us to confirm proper and timely reporting. We've now used the TRC multiple times to answer questions via email or call. Their quick responses and vast resources have been a great tool to utilize in assisting our clients.”

Elexus Roth, Hoffman Stewart & Schmidt, P.C.



“In the short time that Ballards have been members of AGN International, we have had a number of clients that have had needs in North America. The AGN Technical Resource Center has been an invaluable reference point and source of assistance. This, along with the excellent client service provided by AGN member firms, has resulted in a seamless and efficient experience for our client. Receiving positive feedback from our client is the best feedback we could hope to receive.”

Andy Bewick, Ballards LLP



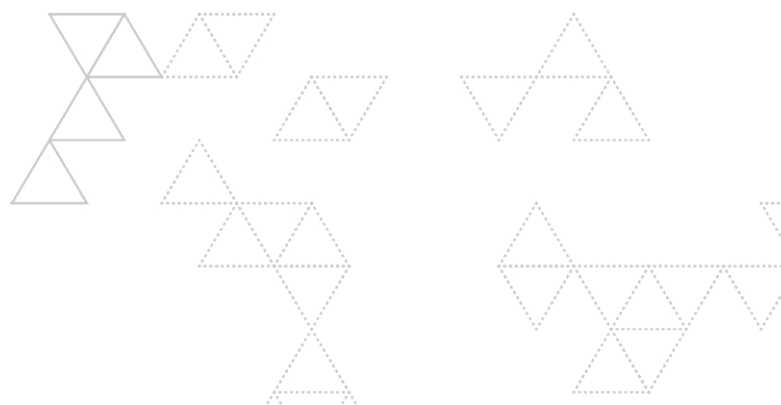
“ We had a client that had a tax controversy matter that we wanted to get a second opinion on or provide additional insight. We were quickly connected to a tax controversy expert from a member firm. They provided their opinion as well as several specific IRS phone numbers and fax numbers to utilize specifically for our situation. ”

Gianluca Carrabs, Janover



“ We contacted the AGN Technical Center when a US client indicated they might be starting a business in Mexico. We were able to quickly link up with a Mexican firm to help us. The client has not gotten far enough in the process for the Mexican firm to give us any specific advice, but it is great to know that if and when they do go forward, we have expertise to draw on. ”

Elizabeth Latham, Johnson O'Connor



**Excellent.
Connected.
Individual.**

**For all inquiries, please contact
Faiz Jaffar. For Technical Resource
Center services please visit the
TRC at agn.org**



Faiz Jaffar
Member Services Manager
AGN North America

P: 303-743-7880, x105 (option 5)
E: fjaffar@agn.org
www.agn.org



For further information, or become involved, please contact:

AGN International
Email: info@agn.org | Office: +44 (0)20 7971 7373 | Web: www.agn.org

AGN International Ltd is a company limited by guarantee registered in England & Wales, number 3132548, registered office: 3 More London Riverside, London, SE1 2RE United Kingdom. AGN International Ltd (and its regional affiliates; together "AGN") is a not-for-profit worldwide membership association of separate and independent accounting and advisory businesses. AGN does not provide services to the clients of its members, which are provided by Members alone. AGN and its Members are not in partnership together, they are neither agents of nor obligate one another, and they are not responsible or liable for each other's services, actions or inactions.

Copyright © 2024 AGN International Ltd. All rights reserved. No part of this publication may be reproduced, distributed, or transmitted by non-members without prior permission of AGN International Ltd.