

## Self-Incorporation Discussion

### Introduction

Dear LeSS NYC meetup participants:

I led an open space session at the [2019 Agile Coaching Summit in Chicago](#) regarding back office logistics. I was joined by [Dr. CK Taneja](#), another independent coach with his own small consulting entity.

Prior to the open space session I listed each of the topics you will see detailed here on a wall sized whiteboard, with additional short notes where it made sense. When the session started I initially spent a few minutes providing a quick overview of each topic as I walked the wall. Following my overview, we switched to dot vote prioritized time-boxed discussions of the topics which garnered the most votes. That is to say the structure and agenda was almost identical to that planned for the [Experience Report: Navigating Self-Incorporated Consulting](#) LeSS NYC meetup.

A few days after the open space session, I created a LinkedIn article with detailed notes on each topic from the whiteboard. The document you are currently reading is a very lightly edited version of that same article.

The more people who take the time to read this document before the meetup, the deeper and more insightful our conversations are likely to be. You will find the Level 1 headers here correspond verbatim to the expected back-office logistics topics we will be dot voting on.

In addition to pre-reading this document, please consider keeping it open as reference material during the meetup itself. The table of contents view in your PDF viewer should make the document quick to navigate. Failing that you can always use the included table of contents below.

I look forward to an active discussion during the meetup. Dana Pylayeva and David Stackleather will be joining as fellow panelists. Each of us brings somewhat different experiences and perspectives which will allow us to provide more insight as a group than any of us could on our own.

Sincerely,

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## Contributors

The bulk of this document has been derived from a LinkedIn article I created as a follow-up to an open space session I lead at the [2019 Agile Coaching Summit in Chicago](#). I was fortunate to have been joined by Dr. CK Taneja in the original open space discussion. Some of the information included was a direct result of insightful conversations I had with Dr. Taneja, both during and after the open space discussion.

David Stackleather and Dana Pylayeva are joining me as panelists for the [Experience Report: Navigating Self-Incorporated Consulting](#) LeSS NYC meetup session. David and Dana have generously offered to add additional content to this document where it makes sense. As such, this document is slowly expanding into a more collaborative effort with every revision.

Biographical information for each of the contributors is listed below.



[James Carpenter](#) (myself) is an experienced independent agile transformation coach, software engineer, and author who grew up on a Texas dairy farm. He is focused on large LeSS-like organizational transformations.

A LeSS case study and references regarding past LeSS adoption efforts are available upon request. His book "Forging Change: Agile Restructuring in Practice" is available in both e-book and print formats from most bookstores including Amazon (<http://amzn.com/1732875111>).



[Dr. CK Taneja](#) is a kind and insightful agile coach and friend for whom I don't yet have a good biography. Dr. CK Taneja joined me for the initial open space discussion at ACS 2019.



[Dana Pylayeva](#) is a kind and insightful agile coach and friend for whom I don't yet have a good biography. Dana will be joining the NYC LeSS meetup as a panelist.



[David Stackleather](#) is a kind and insightful agile coach and friend for whom I don't yet have a good biography. David will be joining the NYC LeSS meetup as a panelist.



[Gene Grendel](#) is the organizer of the NYC LeSS meetup. He is also a kind and insightful agile coach and friend for whom I don't yet have a good biography.

## Motivation

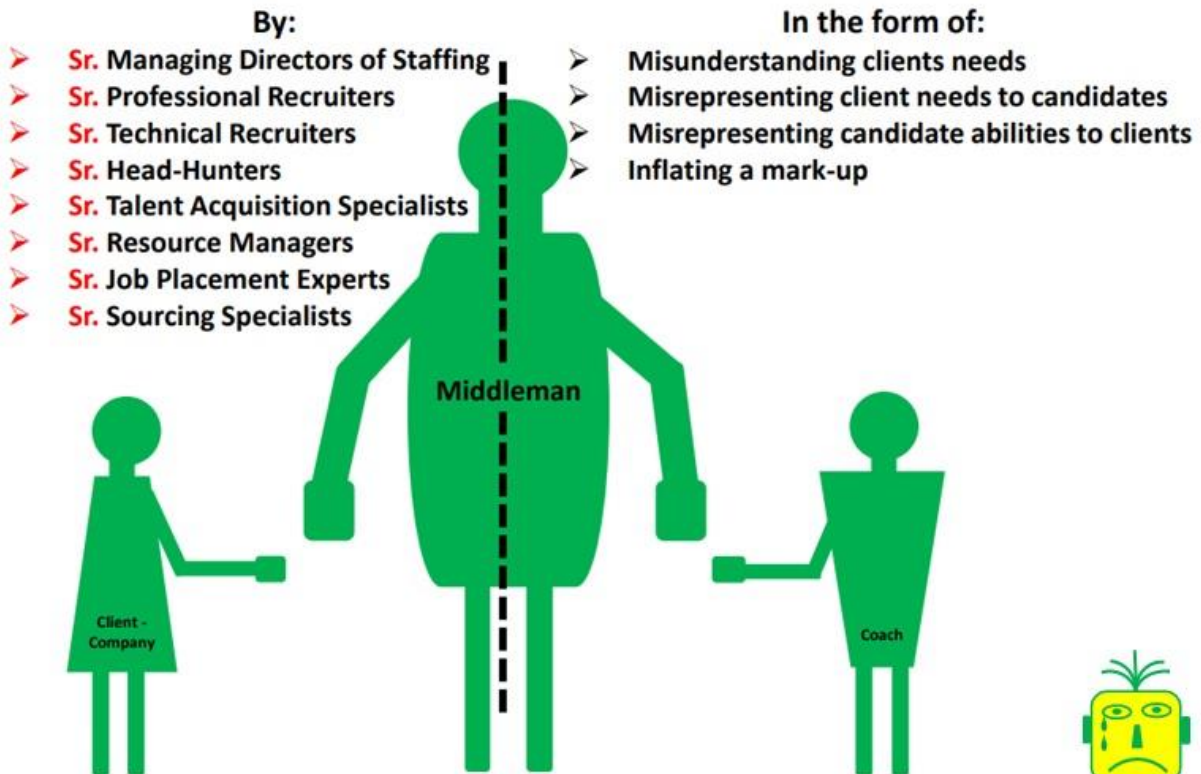
Incorporation provides a variety of tax avoidance benefits while also making it possible to avoid losing as much revenue to middlemen. Perhaps more importantly, eliminating middlemen helps to avoid the distorted messaging which often happens when a middleman is involved. Distorted messaging can be a problem even if you are only doing heads-down technical work, yet alone when helping with a large agile adoption effort.

For example, let's assume you are trying to help a client with a LeSS adoption. LeSS recognizes [culture is largely driven from structure](#), and tackles it head on. A healthy LeSS adoption flattens out the reporting structure within the product development group so as to create fertile soil in which a healthier and more effective engineering culture can flourish. Helping with an effort which makes major changes in the client's internal power dynamics is inherently susceptible to distortion by a middleman.

The typical middleman vendor is more worried about ensuring its skim of the revenue for as long a period of time as possible than in helping to create lasting organizational change. The behaviors and incentives of traditional large consultancies are generally just as bad if not worse.

Gene Grendel has created a couple graphics which do a great job of getting to the heart of the matter. They have been copied below with his permission.

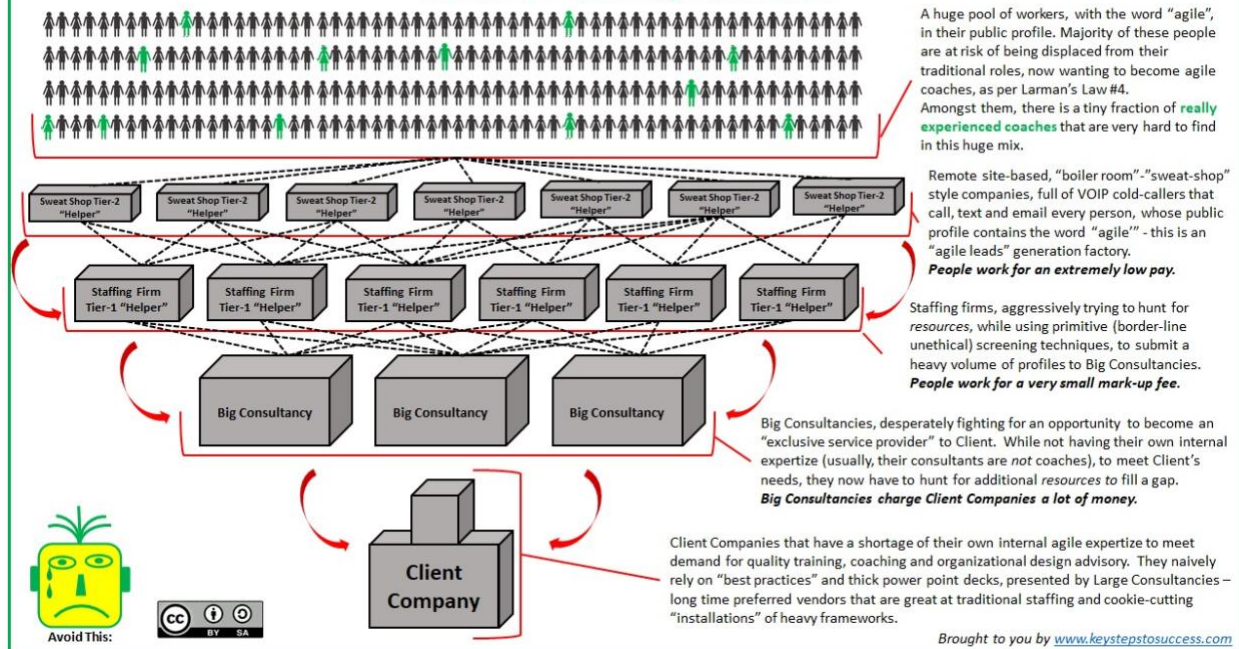
## Middleman Problem: Low (very) Value Proposition



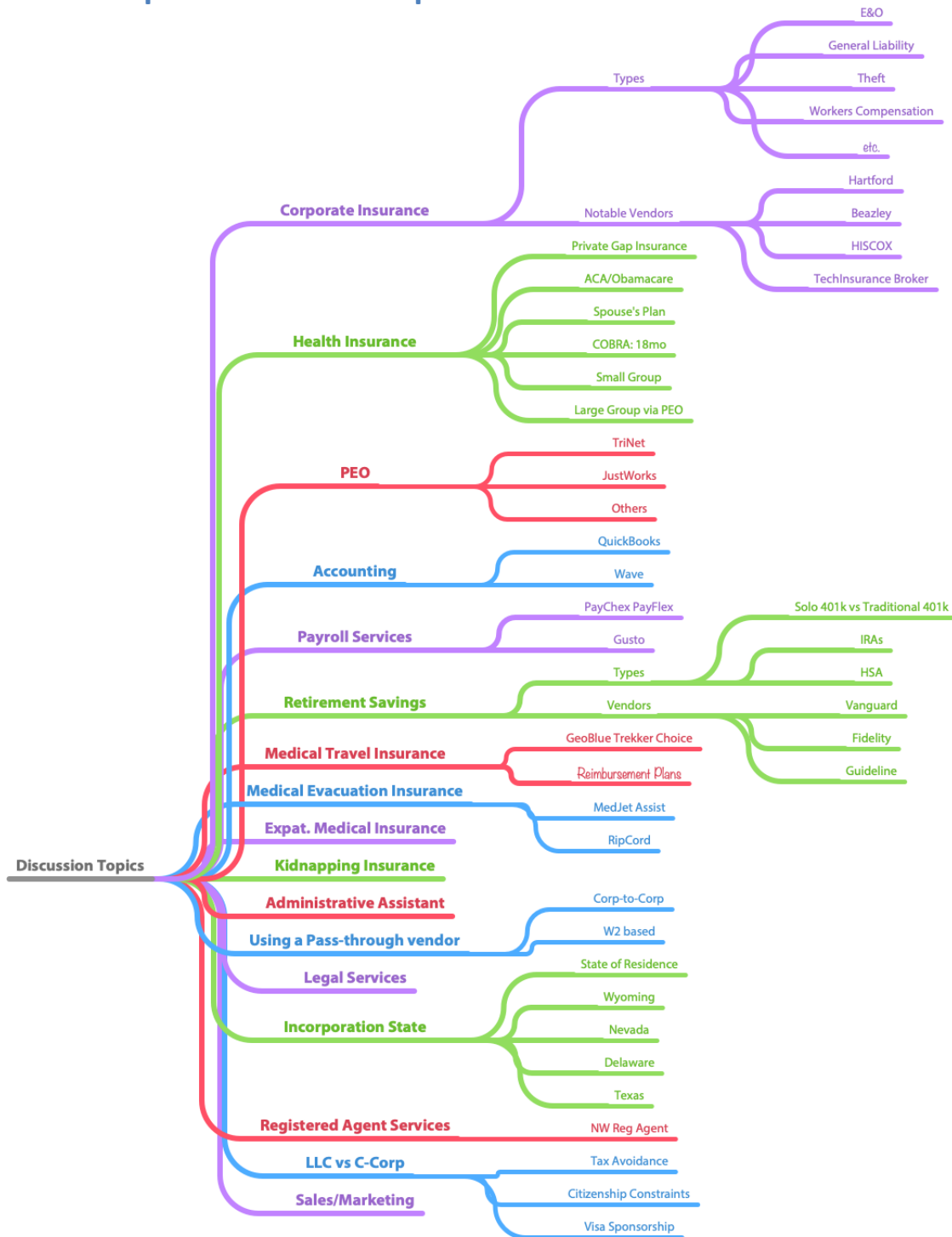
Avoid This:

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## "Resource-Processing Food Chain"



# Mind Map of Discussion Topics



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## Introduction in Original Article

It was a pleasure to meet everyone at the 2019 Agile Coaching Summit in Chicago. For those who attended the Independent Consulting Back-Office open space discussion, here are my notes.

I have reformatted the notes to make them easier to read than before. They are still very simple jumping off points in most cases. Additional links and reference information have been added as appropriate.

## Corporate Insurance

- Errors & Omissions
- General Liability
- Theft
- Workers Compensation
- etc.

## Notable Vendors

- Hartford: <https://www.thehartford.com>
- Beazley: <https://www.beazley.com> (better errors & omissions)
- HISCOX: <https://www.hiscox.com>
- TechInsurnace: <https://www.techinsurance.com> (Broker I am currently using)

I originally used TechInsurnace as my broker. Their service was good, although I suspect I might go directly next time. Once a broker quotes you, it becomes tricky to go direct until the quote has several months to expire.

## Health Insurance

- Private Gap Insurance: does not support pre-existing conditions
- ACA/Obamacare: Very poor doctor networks, poor value
- Spouse's Plan: Often best choice if available
- COBRA: Limited to 18 months
- Small Group: Possibly good if available to you. Requires at least two employees in most states.
- Large Group via PEO: High quality coverage typical of corporate America.

Good health insurance isn't cheap. As an employee of a large corporation you are probably used to employee premiums on the order of a few hundred dollars, with your employer playing the rest. As a single shingle you or your own entity must pay for everything. Your premiums will therefore be comparable to what you pay for COBRA. Expect to pay more than a thousand per month. This isn't really any more than you were indirectly paying before, you just didn't see it since your wages were reduced to account for it.

Your overall costs will likely be lowest with an HSA compatible high deductible plan, even when you assume you will hit the maximum out of pocket each year. From my perspective the critical concern is access to high-quality doctor networks without any pre-existing condition constraints.

## Reference Info: General

- Small Group Definition By State: <https://www.kff.org/other/state-indicator/small-group-health-insurance-market-guaranteed-issue>
- States with small group defined as one: WA, CO, IA, LA, MS, FL, NC, DE, CT, RI, MA, NH, VT, NY, ME, HI
- States with small group defined as two or more, excluding spouse: Every other state

## Reference Info: TriNet Medical Plans

TriNet has large group policies available from the usual suspects such as: Aetna, United Health Care Group, Blue Cross, and Kaiser. The pricing and benefits across providers is relatively competitive. For example an Aetna HDHP will be very comparable in pricing and benefits to a United Health Care HDHP.

Some of the TriNet Aetna policies used to be publicly listed at:

<https://www.trinetaetna.com/ppo-hdhp-hra-pos-benefits-summaries>

## Reference Info: JustWorks Medical Plans

You can create a free account at JustWorks to browse their medical plans using the following link: <http://secure.justworks.com/go?sp=ss>

Don't worry, you won't have to formally sign anything or otherwise formally engage with JustWorks. The free account just lets you browse their system and provides a portal in which you could sign up with them if you desired.

To see your medical choices you will have to fill out their request for a medical insurance quote. This is basically just about providing a list of employee names, birthdays, and zip codes. If you use fake names, use realistic ones; it seems to be actual humans who spin up the quotes so Donald Duck won't work (yes I tried). It will take a few work days before the quotes come back and you can see the insurance options.

The medical options I obtained using Milwaukee as my headquarters were all Aetna plans. The options similar to my TriNet HSA compatible plan were all "Aetna Open Access Managed Choice" type POS plans. The co-pays, deductibles, max out of pocket amounts, and similar measures were adjusted differently here and there but otherwise similar. The key observation is that in the case of a catastrophic medical event which exceeds your max out of pocket amounts, the TriNet Aetna plans and the JustWorks Aetna plans are basically identical in terms of quality of care.

The big differences between TriNet and JustWorks in terms of medical insurance plans is in breadth. TriNet makes both United Health Care and Aetna plans available to me in Milwaukee; JustWorks only provides Aetna plans. Furthermore, TriNet provides nose bleed priced policies with premiums in the \$2500/month range with extremely low co-pays as well as much lower priced options similar to what JustWorks has.

If you sum the max out of pocket family limit and yearly premiums for all the plans, you will discover the HSA compatible plans are clearly the best choice even in catastrophic situations. Even if you are trying to use free health care to recruit very highly compensated employees, employees will be better off if you max out their HSA savings accounts and fully subsidize their HSA compatible plan premiums. Maybe even pay for direct primary care on top of that with money saved from avoiding the nose bleed premium plans.

## Reference Info: Quality of Care

Due to lack of data and possibly intentional obfuscation by the insurance industry, it is exceptionally hard to compare different insurance plans in terms of quality of care. By quality of care I am referring to things such as size and prestige of the doctor networks, willingness to pay, and just generally not fighting the doctors. The best information I have found so far on this topic is from The Henry J. Kaiser Family Foundation: <https://www.kff.org/private-insurance/issue-brief/claims-denials-and-appeals-in-aca-marketplace-plans>

I had a relatively good experience with Aetna when my wife had a serious accident resulting in months of hospitalization. The doctors were generally fantastic and the in-

network hospital involved is even in walking distance from our home. So high-end trauma care access was good. In contrast, even with large group Aetna coverage routine primary care physician access suffers from the usual problems. Insurance companies often squeeze the primary care doctors too tightly for them to provide ideal levels of patient care.

## Reference Info: Direct Primary Care

A potential solution I am yet to experiment with is Direct Primary Care. The pure models make me a bit nervous price wise, yet the hybrid models look interesting. My suspicion is the hybrid and pure models may be almost the same in practice.

Leveraging direct primary care may well be the solution to a better primary care physician experience. I have heard good things so far from everyone I talked to about this, including a couple of physician friends.

Direct Primary Care looks to cost around \$100 to \$200 per month on top of your normal medical insurance. Unless you are riding on a spouse's subsidized plan, you will already be paying at least \$1200/month in premiums. So we are really only talking about another 15% to hopefully radically transform the medical care experience.

In my mind the biggest issue is likely to be having Direct Primary Care charges be applied to the deductible and max out of pocket amounts of my HSA compatible medical policy. At least one primary care doctor's website in my area implies they will provide properly coded receipts that can be submitted to one's insurance provider. I suspect actually submitting these will be a nightmare, but I could be wrong. It certainly is worth trying.

You are likely to find less than a half dozen primary care doctors in your area. This should make the shopping easy. After doing your initial research online you can schedule free introductory appointments with each and go visit all of them in person within a single day.

Useful map of Direct Primary Care providers: <https://mapper.dpcfrontier.com>

## Reference Info: Telemedicine

If you find yourself doing travel heavy consulting, you will eventually find yourself sick with a bad cold or flu, stuck in a hotel away from home. The idea of telemedicine seems a very appealing solution to this problem.

With my Aetna plan I have free access to Teladoc. The problem is the Teladoc reviews are terrible. I suspect this is true of most any telemedicine offering with the same random doctor of the day problem.

I think what you really want is a remote session with your normal primary care physician. The more international travel one does, the more important this is likely to become. Telemedicine options would be a great topic to discuss if shopping around for a direct primary care physician.

I noticed Zoom meeting has a HIPAA compliant version of their product. My guess is most physicians already have a HIPAA compliant video solution in place provided to them by their hospital network.

I often find myself flying into the same client site for months on end. This makes it possible to leave a heavy bag at the hotel and only fly with a light carry-on bag. So I should be able to improve my first aid kit to include whatever would best help my primary care physician in a remote visit.

- Digital Stethoscope for Telemedicine: <https://www.thinklabs.com>
- Zoom (HIPAA compliant): <https://zoom.us/healthcare>

## Professional Employment Organization (PEO)

- #emp = 1: TriNet
- #emp >= 2 (excluding spouse): JustWorks, one or two others
- #emp >= 5: PayChex PEO, Several others
- #emp >= 10: ADP TotalSource, every PEO

Many PEOs are limited in which states they support. The big ones can handle all 50 states. For traveling consultants, coverage in every state is generally important.

To my knowledge, TriNet is the best and only long-term solution generally available for a single shingle to access proper high quality health insurance. If you are in a state which defines a small group as one, or if you can stay on your spouse's plan you should strongly consider doing so. Otherwise, TriNet is very likely the solution to your problem.

See the Health Insurance section above for more details on the TriNet and JustWorks medical plan options.

UPDATE: TriNet has raised their employee limit or at least made it more subjective. Historically TriNet made it very clear they allowed a single employee officer only company. These days it has become a bit of a subjective business call on their part whether they will on-board a single shingle. The answer may vary from one potential client to another, or even from one year to the next as their risk profile changes. As a pre-existing client, Agile Carpentry is grandfathered.

## Reference Info

- National PEO Association: <http://www.napeo.org>
- Industry ESAC certification: <https://www.esac.org>
- IRS CPEO certification: <https://www.irs.gov/tax-professionals/cpeo-public-listings>

## Accounting

- Quickbooks Online: What your CPA will be used to.
- Wave: Free for most things.

You will also need a good small business CPA capable of handling multiple states. When choosing accounting packages, consider how much of your accounting you intend to offload to your accountant. If you are delivering training to a variety of companies, you will likely have time to do more of the work yourself. If you are doing on-site consulting week after week, you will likely want to offload as much work as possible to your CPA and/or administrative assistant.

## Payroll Services

- PayChex PayFlex: Properly handles multiple states in a single payroll period.
- Gusto: Well reviewed and inexpensive.

There are lots of payroll providers, any of them are likely to be much better than trying to properly calculate payroll deductions on your own.

As a traveling consultant you are very likely to find yourself billing in multiple states within a single payroll period. Sadly, most payroll services can't handle this. During my initial research a couple years ago Gusto, QuickBooks, and even ADP's small business solution couldn't handle this. PayChex's PayFlex solution could.

I was very happy with PayChex's customer service. I only left them when I converted to TriNet, prompted by my COBRA coverage ending.

If you make use of a PEO such as TriNet, then payroll support will be part of the solution. TriNet handles paying an employee who is in multiple states in a single pay period just as well as PayChex's PayFlex did.

**WARNING:** PayChex and ADP do not have a transparent pricing model. They are the old school leaders in their space. You have to contact them for a quote, after which their commissioned sales staff may continue to bug you long after you have chosen another provider. Their first price quote is unlikely to be the best they can do; they will typically match other provider's offers. PayChex's sales staff was a little less vulture-like than ADP. TriNet pricing is also opaque in this regard.

## Retirement Savings

- Solo 401k vs Traditional 401k
- IRAs
- HSA

## Notable Vendors

- Vanguard: The Boglehead's are huge fans of Vanguard.
- Fidelity: Good for anything Vanguard can't do.
- Guideline: When a traditional 401k provider is required.

TriNet will let you choose any 401k provider you wish, although they co-market with TransAmerica.

As long as you qualify, a Solo 401k is a much better choice than a traditional 401k. As soon as you have non-officer employees a traditional 401k will be required to meet the regulatory requirements. Guideline seems to get great reviews for a traditional 401k provider.

TriNet's HSA custodian choice is determined by your choice of major medical coverage. The best you can do with TriNet is to occasionally sweep the funds into an HSA of your choice. Fidelity apparently has the best HSA currently available. Vanguard does not currently offer an HSA.

## Reference Info

- [https://www.bogleheads.org/wiki/Three-fund\\_portfolio](https://www.bogleheads.org/wiki/Three-fund_portfolio)
- [https://www.bogleheads.org/wiki/Vanguard\\_four\\_fund\\_portfolio](https://www.bogleheads.org/wiki/Vanguard_four_fund_portfolio)
- <https://www.amazon.com/Bogleheads-Guide-Investing-Taylor-Larimore/dp/1118921283>
- <https://www.amazon.com/Bogleheads-Guide-Three-Fund-Portfolio-Outperforms/dp/1119487331>
- <https://www.amazon.com/Intelligent-Investor-Collins-Business-Essentials-ebook/dp/B000FC12C8>
- Solo 401K with Vanguard: <https://investor.vanguard.com/small-business-retirement-plans/open-sep-simple-individual-401k>
- Why VTSAX beats Fidelity FSKAX: Forum Posting: <https://forum.mrmoneymustache.com/investor-alley/fidelity-fstvx-vs-vanguard-vtsax>
- Why VTSAX beats Fidelity FSKAX: Article: <https://www.whitecoatinvestor.com/expense-ratios> (Reasons are tracking error and lending income.)



## Medical Travel Insurance

### GeoBlue Trekker Choice

- \$390/yr
- \$250,000 medical
- \$500,000 evacuation (nearest medical center of excellence)
- \$5,000 RX
- \$25,000 AD&D
- \$50 deductible (waived if in-network)
- Covers pre-existing conditions
- Allows unlimited trips
- Only for unplanned types of coverage. Not useful for routine checkup, etc.
- Supports direct payment for services. This is real medical insurance, not just a reimbursement plan.
- Only available with ACA compliant domestic medical insurance (any proper corporate plan will work)
- Trip durations can not exceed more than 70 days per trip on the multiple trip version.
- Using the per trip GeoBlue Voyager Choice option allows up to 6 months.
- <https://www.geobluetravelinsurance.com/products/multi-trip/trekker-5-overview.cfm>

## Medical Evacuation Insurance

To have medical evacuation back home, rather than to a regional medical center of excellence requires Medjet, Ripcord, or similar competitors.

### Medjet Assist

- Annual (1yr only)
- Family
- International & Domestic
- <=90days/trip
- Medical Evacuation: \$399
- Medical Evacuation, and Security Evacuation: \$578
- Website: <https://medjetassist.com>

Unlike RipCord, Medjet doesn't include in-field rescue. Medjet requires an airport, or at least a helo-pad.

The Security Evacuation services are delegated to FocusPoint International. Based on the huge price difference between RipCord and Medjet for security evacuation I expect RipCord's offering is likely far better. Odds are FocusPoint is little more than a call center that helps coordinate things and maybe pays for airline tickets and such.

If you are really worried about security evacuation you might want to call an insurance broker that sells kidnapping insurance. My guess is they have a whole range of plans which are potentially more comprehensive than RipCords. I know almost nothing about security evacuation insurance, but it shouldn't take more than a call to TechInsurance to learn more.

## RipCord

- Annual
- Family
- <=90days/trip
- Medical Evacuation and Rescue: \$725
- Medical, Rescue, and Security Evacuation: \$1450
- Website: <https://www.ripcordrescuetravelinsurance.com>

## Related Notes

1. RipCord will pluck you off the side of a mountain, assuming you can manage to contact them. See PLM and 2-way satellite communicator notes.
2. The more extreme the expected situation, the more I would lean towards RipCord over Medjet. For normal business travel in which normal ambulance services are covered by routine travel insurance (GeoBlue Trekker Choice, etc.) the less the need for RipCord. Based on the price difference I expect the Ripcord security evacuation services are much better than Medjet's FocusPoint International offering.
3. RipCord offers travel insurance which includes \$100,000 of medical coverage, along with baggage loss, and similar types of coverage. This is only available on a specific trip basis, not annually. If focusing on medical coverage, the GeoBlue choices look much better. I'm pretty sure this is just reimbursement, without any extensive provider network or direct bill type arrangement.
4. Adventurous treks up a mountain or through the jungle will require a Personal Locator Beacon (PLB), or more likely a 2-way satellite communicator. PLB has a one time cost, is generally very reliable, yet only offers a very simplistic one-way call for help. 2-way messengers require paying a subscription. In extreme circumstances the ideal would probably be both. (See: <https://www.rei.com/c/plbs-and-satellite-messengers>)

## Expat Medical Insurance

Long-term expat work gets complicated. Private Expat medical insurance has all the same pre-existing condition problems as domestic private medical insurance.

The solution seems to be the same as it is in the US, which is to make use of an international Employer of Record (EOR) which is largely similar to a PEO without the co-employment twist. Alternatively you could just fly back to the US often enough to ensure something like GeoBlue Trekker would continue to cover you.

Papaya Global and Velocity Global are two such companies. Whereas the service fee for a domestic PEO is a couple hundred dollars per month, the international EOR service fees seem to be closer to a thousand per month. Benefits costs would be on top of this.

- Papaya Global: <https://papayaglobal.com>
- Velocity Global: <https://velocityglobal.com>

## Kidnapping Insurance

When I last talked with my TechInsurance broker I briefly asked about kidnapping insurance. Turns out it is a normal thing for executives and comes bundled with professional negotiation teams and the like. It is also very pricey. We didn't get into details but I got the impression it is on the order of \$10,000/year or more. If you have a client that really needs you to go somewhere with a slight kidnapping risk, perhaps you just build this into the rate. If your client needs you to go to somewhere with a high kidnapping risk, I suggest you look for a different client. :)

The key lesson here is you can just call a professional corporate insurance broker such as TechInsurance and they can tell you more.

## Administrative Assistant

Pink Spaghetti: <https://www.pink-spaghetti.co.uk>

I have been extremely happy with Pink Spaghetti. I found them based on a strong recommendation from a client of my editor. I would be very surprised if a random well reviewed on-line virtual administrative service would be as good. I am currently paying 25GBP/hr, which equates to around \$31/hr. This gets me an intelligent work from home part-time person who can handle significant complexity which the average admin probably never could. Pink Spaghetti also has a good depth of bench. As I only use a couple hours a week on average, the rate is very reasonable.

I'm sure there are some great US based choices with similar quality of service. I just don't know who they are. Unless my demand radically increases, I am not willing to risk poor service for a small reduction in rate.

## Using a Pass-Through

Rather than maintain relationships with a large number of vendors, large corporations will often limit their business to a small number of pre-approved vendors. It is much better to figure out how to become an approved vendor yourself whenever possible, but if not you may find yourself with a pre-approved vendor acting as a pass-through.

The real risk with a pass-through vendor is that they will try to insert themselves into the day to day strategic business relationship between you and your sponsor. You must be very careful to protect yourself from this.

## Recognizing and Identifying a Corp-to-Corp Pass-Through Vendor

Some client's will have a pass-through vendor who only focuses on pass-through relationships. These vendors specialize in contingent labor arrangements and never take more than a contractually pre-agreed commission. Their commissions tend to be less than three percent of billables for any contractor going through them, and sometimes half of that.

A proper pass-through vendor's responsibilities will be limited to the following aspects:

- Ensuring contract compliance such as proof of insurance, background checks, etc.
- Possibly floating payroll. For example, a pass-through might promise all invoices are paid within 30 days of invoice, even if the end client only pays the invoices within 60 or 90 days of invoice. A pass-through which is "floating" payroll in this fashion will understandably charge a slightly higher fee, perhaps 3% rather than say 1.5% of billables.
- Providing a path for money to flow from the end client to your company, while collecting their toll as it passes by.

Unfortunately, even when a client has a pre-approved pass-through vendor focused only on contingent labor the hiring manager won't necessarily have a clue who that is. The vendors the hiring managers are generally aware of are the ones with account managers who constantly interact with them. These are always more traditional staffing or consultancy firms since a true pass-through vendor's commissions are far too small to sustain the overhead of an active sales staff routinely interacting with hiring managers along with active recruiters searching to fill open roles.

Deep in the back-office of a large Fortune 500 you will find a very small number of people (perhaps only one or two) who actively deal with on-boarding new contract employees. You need your sponsor to help you identify this person. Once you find this person, this person can immediately tell both you and your sponsor what vendor they use for pass-through candidates. For a corp-to-corp pass-through relationship the commissions should be no more than two or three percent of billables, or sometimes a fixed daily amount in the same ballpark.

## W2 Pass-Through

Rather than spin up your own corporation, you can often work directly on a W2 arrangement. An hourly W2 employer must pay a variety of employer side taxes, partially contribute to legally required medical insurance, and float payroll regardless of whether the end client has paid the invoice or not. The end result is turning a corp-to-corp rate into a W2 costs around 13% of billables even without any profit. After accounting for profit a true W2 pass-through commission is on the order of 15% to 17% of billables.

A proper pass-through vendor will generally be able to quote you both a corp-to-corp and a W2 commission rate. To some extent the pass-through doesn't care which one you choose. To calculate a W2 commission rate the pass-through vendor will type your end client bill rate into their spreadsheet to calculate their carrying cost for a W2 relationship, and then tack on the same base commission rate they charge for a corp-to-corp pass through.

## Dealing with a Fake Pass-Through

You will occasionally encounter a client who's vendor management group is so mismanaged as to not have a pre-arranged pass-through vendor yet also makes on-boarding new vendors overly difficult. If you absolutely can't manage to get your sponsor to help you establish a direct vendor relationship, then you will need a pass-through arrangement with a normal staffing firm. You will need your sponsor to help identify and negotiate an acceptable minimal pass-through rate with the existing vendors.

So long as your sponsor is willing to pay for the uplift such that your rate is unaffected, having a higher commission pass-through can be workable. The risk is the vendor will try to insert themselves into the strategic relationship; which they almost always try to do after a few months. Making sure you and your sponsor are very clear about this risk before you start can help. You and your sponsor can then work together to mitigate this risk if/when problematic behavior on the part of the staffing firm arises.

To some extent the larger and more generic the staffing firm the better. For example, as an agile coach you are much better with a generic IT staffing firm acting as a pass-through than another agile consultancy. The less technically capable the staffing firm is at fielding account representatives who actually understand your speciality, the less effective they will be when they try to work their way deeper into the business relationship. You want a staffing firm which is financially very stable, competent in processing and paying invoices and not much else.

Once you have been onsite at the client for a while, you may even be able to figure out more about how to become an approved vendor. You may even want to talk about this with your sponsor before you start. You and the sponsor can thereby use a pass-through to get started quickly, while working out the direct vendor route over time.

## Fake Pass-Through As Real Pass-Through

Sometimes things are a little fuzzier than the above description implies. A more astute vendor management group within a large Fortune 500 will sometimes negotiate a pre-agreed pass-through rate with one of their existing traditional staffing vendors. The traditional staffing vendors are not necessarily excited about this, but they put up with it so as to get the client's other traditional staffing business.

As long as the pass-through commissions are competitive with normal pass-through commissions there won't be a lot of difference from your perspective. You will need to remain vigilant about the staffing company's account managers trying to insert themselves further into the business relationship, although perhaps to a lesser extent than you otherwise would.

## Non-Compete Clauses

Be careful to remove any non-compete clauses from your legal agreements with a pass-through. The pass-through vendor knows they shouldn't be there, and will typically remove them without complaint. Such terms in a contract are often an artifact of a fake pass-through vendor using the same boilerplate legal text they use when they were responsible for establishing the end client relationship.

You can seek legal council for this or you can just carefully read the contracts and redline whatever makes sense. Most standard contracts are well written such that knocking out non-compete clauses is relatively straightforward.

## Pass-Through Is Generally Hourly

This section has been written assuming your engagement is effectively a time and materials arrangement no different than any other hourly contract work. Perhaps your rate is much higher than that of another technical speciality, yet from the perspective of the client's back office it is just an hourly contract rate.

I recognize the default working arrangement between you and your sponsor is very likely to be a daily or weekly rate plus travel expenses. Even so, with a pass-through involved everything will probably be expressed in hourly wage terms. More sophisticated billing formulas are probably next to impossible without establishing a direct vendor relationship.

You are unlikely to submit normal invoices with a pass-through. At the end of each week you will submit a timecard in the pass-through vendor's system just like any other contractor would. This is true regardless of whether you are working on a corp-to-corp or W2 arrangement. Effectively, the time-card is the invoice.

## Pass-Through And Travel Expenses

Unless you are lucky, you will have to submit expenses into some horrible clunky system a pass-through provides. In such cases, I recommend using a better system such as Expensify to capture and organize your expense report and then figure out the easiest way to work around the clunky system.

For example, you might be able to just upload a PDF report exported from Expensify as a single line item into the clunky system. If that doesn't work, perhaps you can upload a PDF report per expense category. Do whatever works to keep the administrative burden to a minimum.

I recommend offloading the expense reporting burden to an administrative assistant as soon as possible. In some cases you can simply treat the invoice from an administrative assistant service as yet another expense, and submit them along with everything else. In other cases, your sponsor's assistant can help you take care of this. It is in both your and your sponsor's best interest to not have you wasting a few hours per week fussing with expense reports.

## Explaining a PEO Relationship to a Pass-Through

In my experience the administrative personnel at a pass-through are seldom familiar with a PEO relationship. The administrative personnel typically have a large checklist of items they will request from you and are just looking to ensure your compliance. They typically don't make the checklist (their boss or their boss's boss did), they only enforce it.

With a PEO relationship, your workers compensation insurance will come from the PEO with your own legal entity providing all the remaining corporate insurance. To get through this you will need to explain the situation in an email knowing it will very likely get kicked up the food chain for approval. In my experience the pass-through vendor always accepts the constraints imposed by the PEO relationship. The trick is it generally takes a few days before the exception bubbles up to someone within the pass-through who has the authority and legal insight to say yes. The pass-through wants their 2% to 3% commission, so they are extremely likely to say yes once they feel it is safe to do so.

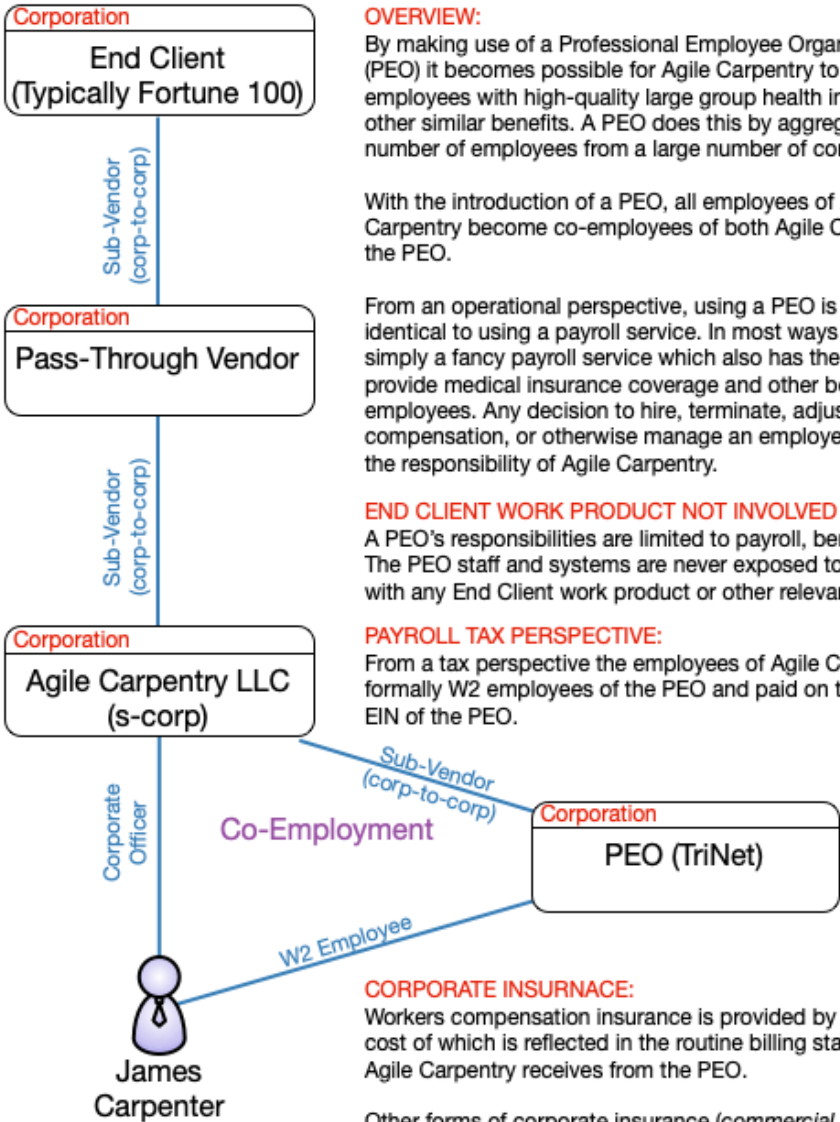
The key artifacts you will need are:

- A letter of explanation from your PEO explaining the IRS 940 and 941 forms the PEO submits to the IRS contain information from other PEO clients as well. So the pass-through can't see them. (TriNet provides these all the time, just ask for one when you need it.)
- A diagram explaining the co-employment relationship.
- The proof of WC insurance from the PEO.
- An email or letter which pulls this all together.

Here is an example of the sort of diagram you will need.



# Corporate Relationships as of October 16, 2018 Cut-Over



### OVERVIEW:

By making use of a Professional Employee Organization (PEO) it becomes possible for Agile Carpentry to provide its employees with high-quality large group health insurance and other similar benefits. A PEO does this by aggregating a large number of employees from a large number of companies.

With the introduction of a PEO, all employees of Agile Carpentry become co-employees of both Agile Carpentry and the PEO.

From an operational perspective, using a PEO is almost identical to using a payroll service. In most ways a PEO is simply a fancy payroll service which also has the ability to provide medical insurance coverage and other benefits to the employees. Any decision to hire, terminate, adjust compensation, or otherwise manage an employee remains the responsibility of Agile Carpentry.

### END CLIENT WORK PRODUCT NOT INVOLVED

A PEO's responsibilities are limited to payroll, benefits, etc. The PEO staff and systems are never exposed to or involved with any End Client work product or other relevant IP.

### PAYROLL TAX PERSPECTIVE:

From a tax perspective the employees of Agile Carpentry are formally W2 employees of the PEO and paid on the Federal EIN of the PEO.

### CORPORATE INSURANCE:

Workers compensation insurance is provided by the PEO, the cost of which is reflected in the routine billing statements Agile Carpentry receives from the PEO.

Other forms of corporate insurance (*commercial general liability, fidelity bond*) are still the responsibility of Agile Carpentry. The Pass-Through Vendor and/or the End Client are typically added as additional insured on the corporate insurance policies to meet contract compliance standards.

### REFERENCE INFORMATION:

What is a PEO: <https://www.napeo.org/what-is-a-peo/selecting-a-peo/faqs>

TriNet PEO: <https://www.trinet.com/>

## Legal Services

Not discussed as a group.

## Incorporation State

- State of Residence
- Wyoming
- Delaware
- Texas
- Florida

If you are deeply rooted in your current state of residence with no plans to ever leave during your lifetime, there may be no reason to consider incorporating anywhere other than your home state. Assuming you make all your revenue in your state of residence, you are unlikely to avoid any taxes by incorporating elsewhere. Incorporating in your home state will likely be slightly less complicated and save a few hundred dollars per year in various fees.

If you think it is likely you will one day move to another state, or expect to generate revenue away from your home state then incorporating somewhere like Wyoming may make sense. If you just happen to live in a state which is almost as favorable as Wyoming, you might just incorporate in your home state anyway. For example, you will often find articles which suggest Texas is almost as favorable as Wyoming.

## Relevant Articles

A few articles with more detail on the topic are listed below. Both NW Registered Agent and Nolo press are reputable places for this sort of advice, so I have listed their articles. A quick google search will find thousands of similar articles which all say more or less the same thing.

- <https://www.northwestregisteredagent.com/incorporate-wyoming.html>
- <https://www.northwestregisteredagent.com/why-incorporate-in-delaware.html>
- <https://www.northwestregisteredagent.com/start-a-business/do-business-in-usa>
- <https://www.nolo.com/legal-encyclopedia/where-to-incorporate-your-business.html>

## Timeline

Once you spin up a corporation, you have to maintain it. So I don't recommend doing so unless you know you will need it. On the other hand, doing the research ahead of time and creating a plan you can execute quickly as soon as you have your first client can make a lot of sense.

It took me around two weeks to fully spin up Agile Carpentry. This included incorporation itself, opening a corporate bank account, identifying and interviewing a reputable small business focused CPA, registering as an alien corporation in another state, standing up payroll services, obtaining corporate insurance, and everything else. I made consistent use of expedited services, expedited mailings, and even drove to my state capital to make this happen quickly.

I had done most of the research in advance, so I only had to execute on my plan and doing so was my number one priority. If you are doing this on the weekends and evenings, expect it to take at least two or three times longer.

The level and cost of maintenance is proportional to just how much of the backoffice you bring to life. If all you have is an idle corporation with a bank account, then it probably won't cost you more than a thousand dollars a year in additional tax preparation, state filing fees, and the like. Even at this level, you will end up spending a non-trivial amount of time dealing with paperwork you otherwise would not need to.

Once you start standing up payroll and corporate insurance the costs start to rise considerably. So a half-step would be to form the corporation and create a corporate bank account. You could obtain quotes for services such as insurance and payroll, but stop short of executing on them. This half-step will likely reduce your lead time to a few days while keeping your idling costs low. It will also provide a more gentle learning curve.

## Registered Agent Services

Northwest Registered Agent: <https://www.northwestregisteredagent.com>

NW Registered Agent is hands down the best registered agent I know of. They provide service in all 50 states, free mail scanning, fair pricing, and amazing customer support. My initial registered agent failed all of the above, which is one of the reasons I am so delighted to have found NW Registered Agent.

With the relative inexperience of many buyers, I see a lot of predatory pricing and marketing practices in the incorporation and registered agent space. I strongly advise you use NW Registered Agent or one of the other very well reviewed registered agent services with nationwide support.

Here are a few reviews of various registered agents I found with a quick google search. All of them talk about how good NW Registered Agent is.

- <https://startupsavant.com/best-registered-agent-services>
- <https://bestllcservices.com/best-registered-agent-services>
- <https://thedigitalmerchant.com/legal/best-registered-agent-services>

NW Registered Agent can also help you incorporate at very reasonable prices.

## LLC vs. C-Corp

There was discussion of various tax benefits of an LLC vs a C-corp. Determining the most tax advantaged option is highly dependent on your individual circumstances. An LLC has a little less paperwork overhead, yet the paperwork for a tightly held C-corp isn't all that bad.

Another aspect is the importance of having yourself be a W2 employee if performing long-term on-site work at a client. For an LLC, this means you will need to choose an s-corp tax election.

## Tax Avoidance and Corporate Structure

As part of some research on various corporate structures I have been reading *Corporations: Seventh Edition* by Alan R Palmiter. The attached two examples speak directly to the tax implications of pass-through vs. corporate tax.

<https://www.amazon.com/Corporations-Examples-Explanations-Alan-Palmiter/dp/1454802472>

This is particularly relevant to the choice of an LLC with s-corp tax election (a pass-through entity), vs. a C-Corp. Taxes have changed a bit since the book was written, but the spirit is the same.

As CK explained there are other tax avoidance benefits of a C-Corp which may outweigh the double taxation. I believe it all boils down to various strategies to minimize corporate profits prior to taxation. It is important to remember an LLC has a choice of being taxed as a partnership/sole-proprietorship, an S-Corp, or a C-corporation.

Please add comments if you have additional insight to add. I am far from an expert in any of this.

### §2.3 Taxation — Critical Element in the Choice

#### Case 1 (Low Income)

Bud and Rudy's flower shop generates \$150,000 in revenues and \$110,000 in tax-deductible expenses during the first year—generating \$40,000 in taxable income. They share equally in after-tax earnings, they each are subject to tax rates for married individuals filing jointly, and they have no other income.

	Flow-Through Entity	Corporation
<b>Taxable income</b>	\$40,000	\$40,000
<b>Entity tax</b>	None	
entity rate		15% of taxable income
entity tax		\$6,000
amount for distribution	\$40,000	\$34,000
<b>Individual tax</b>	Flow-through	Tax on dividends
distribution to each owner	\$20,000	\$17,000
individual rate	\$1,700 + 15% of taxable income > \$17,000	10% of taxable income
individual tax	\$2,150	\$1,700
after-tax income	\$17,850	\$15,300
<b>Total tax (entity + individual)</b>	\$4,300	\$9,400
<b>Overall tax rates</b>		
effective rate	10.9%	23.6%
marginal rate	15.0%	27.8%

#### Case 2 (High Income)

The same as Case 1, except the flower shop generates \$1,300,000 in revenues and \$900,000 in tax-deductible expenses—generating taxable income of \$400,000.

	Flow-Through Entity	Corporation
<b>Taxable income</b>	\$400,000	\$400,000
<b>Entity tax</b>	None	
entity rate		\$113,900 + 34% of taxable income > \$335,000
entity tax		\$136,000
amount for distribution	\$400,000	\$264,000
<b>Individual tax</b>	Flow-through	Tax on dividends
distribution to each owner	\$200,000	\$132,000
individual rate	\$28,807 + 28% of taxable income > \$139,350	\$9,500 + 25% of taxable income > \$69,000
individual tax	\$45,070	\$26,030
after-tax income	\$154,931	\$105,971
<b>Total tax (entity + individual)</b>	\$90,139	\$188,059
<b>Overall tax rates</b>		
effective rate	22.5%	47.0%
marginal rate	28.0%	52.5%

## Citizenship Constraints

S-corp eligibility constraints are sometimes an issue (<https://www.irs.gov/businesses/small-businesses-self-employed/s-corporations>). An s-corp is only an option if all shareholders are US citizens or residents.

## Visa Sponsorship

Apparently one trick as an immigrant is to have your corporation sponsor your visa, green card application, etc. If you are in this situation, a traditional C-corp may be your only good option. Although I have lots of great friends who are immigrants, I personally have very little understanding of all the complexities involved. Perhaps those who do can add useful comments.

## Sales/Marketing

Not discussed as a group.

A key element is how to establish a direct relationship with a sponsor with budgetary authority. This is not something I have personally developed a great grasp of. I have successfully established a direct relationship several times, yet only by being willing to sit on the bench for some time to achieve it.