

Corporate Transparency Act:

Are you ready to face this challenge for your clients?

Beneficial ownership information reporting under the Corporate Transparency Act for the tax professional

The Corporate Transparency Act (CTA) was enacted into law as part of the National Defense Act for Fiscal Year 2021. The CTA mandates that millions of entities report their beneficial ownership information (BOI) to the Financial Crimes Enforcement Network (FinCEN). This resource is meant to provide a preliminary overview of the provisions in the CTA and answer questions that could be raised by clients when informing them of compliance requirements.

Who is required to report under the CTA's BOI reporting requirement?

All domestic and foreign entities that have filed formation or registration documents with a U.S. state (or Indian tribe), unless they meet one of 23 enumerated exceptions, including:

- EXEMPT: Large operating entities that meet all the following criteria:
 - Employ more than 20 people in the U.S.
 - Had gross revenue (or sales) over \$5 million on the prior year's tax return
 - Has a physical office in the U.S.
- EXEMPT: Publicly traded companies that have registered under Section 102 of SOX

What information do companies need to report?

Each company must report the following information:

- Full legal name of the reporting company and any trade or DBA names
- Business address
- State or tribal jurisdiction of formation or registration
- IRS TIN

In addition, each reporting company must report the following details on its beneficial owners and, for newly created entities, its company applicant(s):

- Name
- Birthdate
- Address
- Unique identifying number and issuing jurisdiction from an acceptable identification

When must companies file?

- New entities (created/registered after Dec. 31, 2023) — must file within 30 days.
- Existing entities (created/ registered before Jan. 1, 2024) — must file by Jan. 1, 2025.
- Reporting companies that have changes to previously reported information or discover inaccuracies in previously filed reports – must file within 30 days.

Who is a beneficial owner?

Any individual who, directly or indirectly, either:

- Exercises substantial control over a reporting company, or
- Owns or controls at least 25% of the ownership interests of a reporting company

Who is a company applicant?

- The individual who files the document that creates the entity or who first registers the company to do business in the U.S., and
- The individual primarily responsible for directing or controlling the filing of such a document

What are the penalties for noncompliance with the statute?

- Civil penalties are up to \$500 per day that a violation continues.
- Criminal penalties include a \$10,000 fine and/or up to two years of imprisonment.

What do I need to be aware of?

- There has been some debate about whether non-attorney practitioners advising clients on the requirements of the CTA or the BOI reporting form could be considered unauthorized practice of law.
- Practitioners may wish to contact their insurance carriers or legal counsel to further discuss this issue.

What other considerations are there before I engage with a client?

Consider updating engagement letters, organizers and checklists to clearly state whether services relating to the CTA are included.

Where can I learn more?

Check out Padgett's Federal Tax Updates podcast episode on the CTA by scanning the QR code.



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