CORPORATE TRANSPARENCY ACT FILING REQUIREMENTS

On January 1, 2024, a new reporting requirement went into effect that will require millions of small businesses to file a Beneficial Ownership Information Report (BOIR) with the U.S. Department of Treasury's Financial Crimes Enforcement Network (FinCEN).

Congress imposed this requirement in a statute called the Corporate Transparency Act (CTA), with FinCEN issuing regulations providing the details on who must file a Report, when it has to be filed, and what information has to be reported. Every small business owner needs to know about this new reporting requirement because non-compliance can result in severe penalties. This notice addresses some of the main questions small business owners have been asking about the Corporate Transparency Act requirements.

What is the purpose of the Corporate Transparency Act (CTA)?

The CTA is largely an anti-money laundering law. In it, Congress states that bad actors seek to conceal their ownership of corporations, LLCs, and similar entities in the United States to facilitate money laundering, financing of terrorism, tax fraud, and other illegal acts. According to Congress, federal legislation providing for the collection of Beneficial Business Ownership Information is needed by the government to protect national interests and better enable efforts to counter those illegal acts.

Who has to file a BOI report?

Every corporation, LLC, or other entity created by the filing of a document with a Secretary of State or similar office (Virginia State Corporation Commission) under the law of a state or Indian tribe is required to file a BOI report unless it qualifies for an exemption. Those entities created in the United States and not exempt, are therefore required to file a BOI report, are called "domestic Reporting Companies". (Certain entities created in foreign countries and registered to do business in the United States are also required to file a BOI report and are called "Foreign Reporting Companies.")

Who is exempt from filing a BOI report?

There are 23 categories of entities that are exempt. Most exemptions are for entities that are already subject to substantial federal or state regulation. Exempt entities include, for example, publicly traded companies and other entities that file reports with the SEC, banks, credit unions, money services businesses, securities brokers and dealers, tax-exempt entities, insurance companies, state-licensed insurance producers, pooled investment vehicles, public utilities, and accounting firms.

There is also an exemption for what's called a "large operating company". A "large operating company" is an entity that (1) employs more than 20 full-time employees in the United States, (2) has an operating presence at a physical office within the United States, and (3) has filed a federal income tax or information return in the United States for the previous year demonstrating more than $5 million in gross receipts or sales.

What kind of information has to be reported by domestic reporting companies?

A domestic reporting company created before January 1, 2024, must provide information about the company, its beneficial owners, and any direct or indirect control person. Companies created after January 1, 2024, must also file this information plus its company Applicants (those who created the company) within 90 days of its formation.

A company created after January 1, 2025, must file this information including information about the Company Applicants within 30 days of creation.

What information about the company has to be reported?

The report must set forth the reporting company's (1) full legal name, (2) any trade or "doing business as" names, (3) complete current street address of the principal place of business, (4) jurisdiction of formation, and (5) taxpayer identification number.

What information has to be reported for each of the Beneficial Owners and Applicants?

The report must set forth their (1) full legal name, (2) date of birth, (3) complete current residential street address, (4) unique identifying number and the issuing jurisdiction with a copy of a photo from either a current (i) U.S. passport, (ii) state or local ID document, (iii) driver's license, or (iv) if the individual has none of those, a foreign passport, (5) an image of the document from which the unique identifying number was obtained, and (6) the persons and their supervisors who prepared the filing documents ("Applicants") for creating the company.

Who is a "Beneficial Owner"?

A Beneficial Owner is an individual who, directly or indirectly, either exercises substantial control over the reporting company or owns or controls at least 25 percent of its ownership interests.

Who is a "Company Applicant"?

Company Applicant are the individuals who directly file the documents that create the domestic reporting company and the individuals who are primarily responsible for directing or controlling the filing if more than one individual is involved in the filing of the document.

When does the initial BOI report have to be filed?

A domestic reporting company created before January 1, 2024, must file its initial BOI report not later than January 1, 2025.

A domestic reporting company created on or after January 1, 2024, must file a report within 90 calendar days of the date on which it receives actual or public notice that its creation has become effective.

What if there are changes to the reported information?

If there is any change in the information reported about the reporting company or its beneficial owners, the reporting company must file an updated report within 30 calendar days after the date on which the change occurs. This includes a change in who the beneficial owners are and if the reporting company becomes eligible for an exemption. There is no requirement for a reporting company to update information about the company applicant.

What if a filed BOI report contains an error?

If a report was inaccurate when filed, a corrected report must be filed within 30 calendar days after the reporting company becomes aware of or has reason to know of the inaccuracy.

How are BOI reports filed?

The initial BOI report and all updates and corrections will be filed electronically with FinCEN through a system available via FinCEN.

Where can I find more information about BOI reporting?

FinCEN's website also contains information about BOI reporting at https://www.fincen.gov/boi

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