WEALTH MANAGEMENT

What Small Business Owners Need to Know About the Corporate Transparency Act

Jefferies

WEALTH PLANNING

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The Corporate Transparency Act (CTA), enacted in 2021, aims to combat illicit activity including tax fraud, money laundering, and financing for terrorism by requiring certain U.S. businesses to disclose detailed ownership information.

Under the CTA, as of on January 1, 2024, small business owners who operate through an LLC, corporation, or other similar entity, are required to file detailed ownership information through a Business Owner Information (BOI) report with the federal government. If your business meets the criteria, you must disclose information about who truly owns and controls your company ("beneficial owners").

If you fail to file, update, or correct this information by the deadline—January 1, 2025—you could face civil fines, criminal penalties, or even imprisonment.

For many, it may seem like just another form to file, but the CTA has real implications for privacy and how you manage your business.

Wealth Planning Impact | Changes to Privacy

For those using LLCs or corporations as part of a planning strategy to retain personal privacy, the CTA could have significant impact.

The CTA chips away at privacy by requiring businesses to report beneficial ownership information to the Financial Crimes Enforcement Network (FinCEN). Beneficial owners may have to disclose their names and home addresses to comply with the CTA rules, even if they do not actually own an interest in a company. In addition, once disclosed, this information can be shared with government agencies, law enforcement, and, in some cases, financial institutions. Many business owners may find these disclosures invasive and a further erosion of privacy.

At-a-Glance

Criteria for Companies Required to Submit a Business Owner Information Report

- Domestic reporting companies, including LLCs, corporations, and other entities formed through a filing with a secretary of state; or
- Foreign reporting companies registered to do business in the United States

Definition of a Beneficial Owner

According to the CTA, an individual or trust qualifies as a beneficial owner if they directly or indirectly have a significant ownership stake in a company:

- has a major influence on the reporting company's decision-making or operations;
- owns at least 25% of the company's shares; or
- has a similar level or control over the company's equity

Penalties for Non-Compliance

Failure to file could lead to fines up to $10,000, and even imprisonment. In addition, civil penalties may accrue daily. For small businesses, this could mean serious consequences, both financially and operationally.

Wealth and estate planning entities that may be impacted include:

- Single-member and standard LLCs
- LLCs that hold rental real estate as part of an estate plan or an asset protection plan
- Corporations (whether C or S) that hold a family business
- Trusts are not typically considered reporting companies because a trust can be formed without any state law filing. However, a trust that is a beneficial owner of a company, whether owned as an LLC, C-Corp., or S-Corp., will be included in a BOI by virtue of being considered a beneficial owner because it is a member of the LLC or shareholder in the C or S corporation.

Even if an entity has only one owner and is ignored for federal income tax purposes, like a single-member LLC, it will still have to file reports with FinCEN.

My Business Meets the Criteria, What Do I Need to Do?

If your small business was created before January 1, 2024, you must file a BOI with FinCEN by January 1, 2025. For newer businesses, the filing deadline is within 90 days of formation. These deadlines may seem far off, but the time to act is now. Here's the basic information you need to submit:

- Legal name and trademarks
- Current U.S. address (for foreign companies, their U.S. principal place of business)
- Taxpayer identification number
- Jurisdiction where the business was formed / registered

Businesses registered or established after January 1, 2024, must provide the following information regarding the business, its beneficial owners, and its applicants:

- Beneficial owners and applicant's names, addresses, birthdates, and proper identification such as a driver's license or passport number, and
- Jurisdiction of the documents

Even after the initial filing, you'll need to stay vigilant. Any changes—such as an owner's address, name change, or new person gaining operational control—require an update within 30 days.

Next Steps

Given the complexity, impacts to privacy, and potential penalties involved, working with a knowledgeable advisor is crucial. Although you can opt to file your own BOI report without assistance, consider partnering with a qualified professional who specializes in CTA filings to ensure your report is filed on time and correctly. The Corporate Transparency Act may seem like just another bureaucratic hurdle, but the consequences of non-compliance are too significant to ignore.

Be proactive, get informed, and take steps now to protect yourself and your business.

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