

CLIENT ALERT

(Action is Required)

The Corporate Transparency Act (signed into law on January 1, 2021) expanded anti-money laundering laws and created new reporting requirements for certain companies doing business in the US. Beginning in 2024, many small businesses are required to report information about their beneficial owners to the Financial Crimes Enforcement Network (FinCEN) to create a national database for use by national security and law enforcement agencies to prevent the use of shell companies for criminal activity.

WHO MUST FILE

Corporations (including S Corporations), LLCs, and other entities formed through the Secretary of State (SOS) are subject to the reporting requirements.

Important Information - For example, any entity created with the Secretary of State will need to be evaluated for a filing requirement. This is true even if the entity is dormant.

Sole proprietorships and trusts do not require the filing of a formal document with the SOS. They generally are not considered a reporting company and will not have a filing requirement.

Some companies are exempt from reporting because they are already required to report ownership information to a governmental authority. Of particular interest to you may be the exemption for *large operating companies*. A large operating company is any entity with (a) more than 20 full-time US employees, (b) an operating presence at a physical office within the US, and (c) more than \$5,000,000 of US-sourced gross receipts reported on its prior year federal income tax return. **If you meet these qualifications, you are not subject to the new reporting requirements.**

WHAT INFORMATION MUST BE PROVIDED

Beneficial ownership information (BOI) must be reported for the company's *beneficial owners* and (for entities formed or registered after 2023) *company applicants*. BOI includes an individual's full legal name, date of birth, street address, and a unique ID number. The unique ID number can be from a non-expired US passport, state driver's license, or other government-issued ID card. If the individual does not have any of those documents, then a non-expired foreign passport can be used. **An image of the document showing the unique ID number must also be included with the report.**

BENEFICIAL OWNERS AND COMPANY APPLICANTS

Two groups of individuals are considered beneficial owners of a reporting company: (1) any individual who directly or indirectly owns or controls at least 25% of the *ownership interests* of the reporting company; or (2) any individual who exercises *substantial control* over the reporting company. Individuals with substantial control have substantial influence over important decisions about a reporting company's business, finances, and structure. Senior officers (president, CFO, general counsel, CEO, COO, and any other officer who performs a similar function) are automatically deemed to have substantial control, as are individuals with the authority to appoint or remove senior officers and board members. There is no requirement that these individuals have actual ownership in the company to be considered a beneficial owner for reporting purposes.

The company applicant is the person who files the document that creates or registers the reporting company (e.g., an attorney). Company applicants must provide the same information that is required of beneficial owners, but only if the reporting company is formed or registered after 2023. Because of the difficulty in tracking down information about company applicants for reporting companies that have existed for several years, reporting companies formed or registered before 2024 do not have to supply BOI for their company applicants.

IMPORTANT FILING DATES

For existing reporting companies created or registered before 2024, the initial report is due by **January 1, 2025**. For reporting companies created or registered in 2024, the initial report is due 90 days after the entity's creation or registration. For reporting companies created or registered after 2024, the initial report is due 30 days after the entity's creation or registration.

SUBSEQUENT REPORTING REQUIREMENTS – VERY IMPORTANT

If there is a change to previously reported information about the reporting company or its beneficial owners, an updated report must be filed within 30 days of the change.

Important Information - For example, if you submit a copy of your driver's license as support, an updated report needs to be filed when you obtain a new driver's license.

So, your company must implement a system to identify reportable changes and file an updated report with FinCEN promptly. **The penalties for willfully failing to file both initial and updated reports are steep-\$500 per day that the report is late, up to \$10,000, and imprisonment for up to two years.**

HOW TO FILE

BOI reports must be filed electronically. FinCEN's e-filing portal, available at <https://boiefiling.fincen.gov>, provides two methods to submit a report: (1) by filling out a web-based version of the form and submitting it online, or (2) by uploading a completed PDF version of the BOI report. Some third-party service providers may also offer the ability to file the BOI report through their software. The person who submits the BOI report will need to provide their name and email address to FinCEN.

ACTION REQUIRED

If you would like Card, Palmer, Sibbison & Co. to prepare the filings for your applicable entities for a fee please reach out to us and we will start the process. Keep in mind this is not an annual filing but will need to be updated if there are changes in beneficial ownership or other corporate changes.

Important Information - You most likely have a reporting requirement if your entity is registered with Ohio or any other state.

FILING NOT REQUIRED

If you are not an owner of an entity, no action is required.

QUESTIONS

If you have any questions about these new reporting rules and how they affect your business, we would be happy to discuss them with you. FinCEN also has a Small Entity Compliance Guide and frequently asked questions to help guide businesses through the reporting requirements. These are available at <https://www.fincen.gov/boi/small-business-resources>.

Sincerely,

Card, Palmer, Sibbison & Co.