



The Corporate Transparency Act (the “CTA”) Updated Nov. 30, 2023

What is the CTA? The CTA was enacted by Congress on January 1, 2021 to combat financial crimes, including money laundering, terrorist financing and tax evasion. The CTA charges the U.S. Department of Treasury’s Financial Crimes Enforcement Network (“FinCEN”) with implementing the requirements of the CTA including creating a centralized, non-public database of the individuals who own or control certain businesses in the U.S. Pursuant to FinCEN’s rules, effective January 1, 2024, with limited exceptions, any entity formed in the U.S. or any foreign entity qualified to do business in the U.S. will be responsible for compliance with the CTA.

What does the CTA require? Generally, the CTA requires each “reporting entity” to electronically file a report to FinCEN providing “certain information” about the reporting entity, its “beneficial owners” and its “company applicants.” Starting January 1, 2024, all reporting entities must either qualify for an exemption from the CTA’s reporting requirements or submit the information to FinCEN.

What are Reporting Entities? Reporting entities are corporations, limited liability companies, limited liability partnerships, or other entities that are either (1) formed under the laws of a state or Indian tribe by submitting a document with the secretary of state or any similar office under the law of the state or Indian tribe, or (2) formed under the laws of a foreign country but registered to do business in the U.S. or in any Tribal jurisdiction by submitting a document with the secretary of state or any similar office.

What Types of Entities are Exempt from the CTA? There are 23 categories of exempt entities. Those exemptions fall into 4 general categories: (1) large operating companies, (2) heavily-regulated/reporting entities (e.g. SEC-regulated entities, tax-exempt entities, banks, utilities, etc.), (3) inactive entities (narrowly-defined) and (4) subsidiaries of otherwise exempt entities (with exceptions). In each case, the rules defining each exemption are very specific and require careful analysis.

What Certain Information is Required to be Reported? Each reporting entity must report its legal name, DBAs, U.S. address, and state or foreign jurisdiction of formation. In addition, the reporting entity must report each of its beneficial owner’s and, for reporting entities formed or qualified to do business in the U.S. after January 1, 2024, its company applicant’s: (1) full legal name; (2) date of birth; (3) current address; (4) a unique identifying number from a non-expired U.S. passport, state ID or driver’s license; and (5) a copy of the identification document. For beneficial owners or company applicants who do not want to provide the above-listed personal information to the reporting entity, such individuals may, instead, report such information to FinCEN to obtain a FinCEN identifier and provide the FinCEN identifier in lieu of such personal information.

Who are Beneficial Owners of a Reporting Entity? Beneficial owners are individuals who, directly or indirectly, either (1) own or control 25% or more of the ownership interests of the reporting entity, or (2) exercise substantial control over the reporting entity. FinCEN’s rules define “substantial control” broadly and are intended to capture individuals who may not appear on an entity’s corporate filings or formation documents, but who ultimately control important decisions of, or financially benefit from, the entity. Individuals that exercise substantial control include C-suite executives, general counsels, directors, LLC managers and others with broadly-defined power to direct or prevent significant actions/inactions of a reporting entity.

What are the CTAs Filing Deadlines? Any reporting entity formed or qualified to do business in the U.S. during 2024 must file its report with FinCEN within 90 days. For reporting entities formed or qualified to do business in the U.S. prior to January 1, 2024, the reporting entity must file with FinCEN by January 1, 2025. In the event of any change to the information filed with FinCEN, a reporting entity or individual who has obtained a FinCEN identifier has 30 days to update the filing with any changed information.

Who is Responsible for CTA Compliance? Reporting entities (not beneficial owners or company applicants) are legally responsible for compliance with the CTA. Non-compliance can result in both civil (fines) and criminal (imprisonment) penalties.

What can Taft do for You? Taft attorneys and paralegals can assist reporting entities with CTA compliance. Our services include: (1) advising (a) whether an entity is a reporting entity and, (b) if so, determining its beneficial owners; and (2) assisting with preparation of the FinCEN filing.

Who to Contact? Please reach out to your primary Taft contact to coordinate our support of your CTA compliance efforts.