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# Important New Reporting Requirement for U.S. Businesses

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Beginning on January 1, 2024, most U.S. and some foreign companies will be required to report ownership information to the Financial Crimes Enforcement Network (FinCEN), a bureau of the U.S. Department of the Treasury. To comply with the new Act – called the Corporate Transparency Act (CTA) – companies will have to identify their "beneficial owners," the individuals who ultimately own or control the company. The purpose of this "Beneficial Ownership Reporting" is to create a database of information that would be vital to combating tax fraud, terrorism and money laundering activities.

**Who Does It Apply To?**

The Act generally applies to U.S.-formed corporations and LLCs along with certain foreign-owned entities doing business in the United States. Many sole practitioners, small businesses and middle-market companies will be required to file these ownership reports. This could include entities like statutory trusts, business trusts, or even certain foundations. In addition, entities formed under the law of a foreign country that have registered to do business in the United States may also be required to file.

Notably, there are 23 types of entities that are exempt from the reporting requirements, including banks, credit unions, insurance companies, SEC reporting issuers, accounting firms, tax-exempt entities, and many others. It is crucial to review the list of exempted entities before a reporting is made.

**What Does It Require?**

The Act requires that companies provide information on any individual who, directly or indirectly, exercises substantial control over the company, or who owns or controls at least 25% of its ownership interests. The "substantial control" test is where many companies will likely fall subject to the reporting requirement, as substantial control is generally determined to exist with respect to senior officers of the company, any individual with authority to appoint or remove certain officers or a majority of directors, any individual who is an important decision-maker for the company (as further defined in the Act), or any individual with any other form of substantial control over the company.

**What are the Reporting Deadlines?**

For a reporting company established before January 1, 2024, the deadline to file its initial beneficial ownership information report is January 1, 2025. A reporting company created on or after January 1, 2024 and before January

1, 2025 is required to file the required report within 90 calendar days after receiving notice of the company's creation or registration. This 90-day calendar day deadline runs from the time the company receives actual notice that its creation or registration is effective, or after a secretary of state (or other similar office) provides public notice of its creation or registration, whichever is earlier. Reporting companies created or registered on or after January 1, 2025, will have to file the required beneficial ownership reports within 30 calendar days from actual or public notice that the company's creation or registration is effective.

**Are There Penalties for Not Reporting?**

The Act imposes penalties on companies for not reporting the required information or for providing information that is false or inaccurate. Specifically, if a company willfully provides false information (including a false or fraudulent identifying photograph or document) or neglects to report by the filing deadline, the company can be assessed a civil penalty of up to $500 for each day that the violation continues or has not been remedied. In addition, the company and/or responsible persons can be fined up to $10,000 and/or face up to 2 years of imprisonment.

The Cullen and Dykman Tax Department is ready to assist you and your business with fulfilling the aforesaid reporting requirements. Whether you are an existing business owner or an investor planning to incorporate an entity in the United States, or even reorganizing the current ownership structure, the new requirements may apply to you. The Cullen and Dykman Tax Team is ready to assist you and your business with not only fulfilling the aforesaid reporting requirements, but also with helping you determine whether you could be exempt therefrom. Contact us today.

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## Practices

- Tax