



TAX ALERT

Essential information on the BOI Report and your responsibilities

February 21, 2024

The Corporate Transparency Act (“CTA”) established reporting requirements for certain entities (known as reporting companies) that are formed or operated within the United States of America (“U.S.”). The CTA mandates the submission of the Beneficial Ownership Information Report (“BOI Report”) to the U.S. Department of Treasury’s Financial Crimes Enforcement Network (“FinCEN”), with the purpose of enhancing transparency and reducing illicit financial activities.

This tax update offers a brief overview of the requirements for the BOI Report and Kevane Grant Thornton (“KGT”)’s outlook to this new registration and filing requirement amidst the upcoming tax season.

What is the BOI Report?

It’s a mandatory filing with FinCEN detailing the individuals (known as beneficial owners) who own or control, directly or indirectly, a reporting company.

- The information will be stored in a secure, non-public database, accessible to Federal, State, local, and Tribal officials, as well as certain foreign officials who submit a request through a U.S. Federal government agency.
- Access will be granted for authorized activities related to national security, intelligence, and law enforcement.

Who is required to file?

There are 2 types of reporting companies:

- Domestic reporting companies (entities created by the filing of a document with a Secretary of State, or any similar office in the U.S.), and
- Foreign reporting companies (entities formed under the law of a foreign country that have registered to do business in the U.S. by the filing of a document with a Secretary of State, or any similar office in the U.S.).

There are 23 types of entities that are exempt from filing the BOI Report, most of them are already heavily regulated by federal or state governments.

Why is an entity organized under Puerto Rico law required to file?

The term “State”, as defined in the CTA, means any state of the U.S., D.C., the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands and any other

commonwealth, territory, or possession of the U.S. Therefore, in addition to companies in the 50 states and D.C., a company that is created or registered to do business by filing a document with the Puerto Rico Secretary of State, and that does not qualify for any exemptions to the reporting requirements, is required to file the BOI Report with FinCEN.

Who is a beneficial owner?

A beneficial owner is an individual who either directly or indirectly:

- exercises substantial control over the reporting company, or
- owns or controls at least 25% of the reporting company's ownership interest.

When to file?

Although the BOI Report is not an annual filing, it is important that it is filed in a timely manner to avoid any civil or criminal penalties. As shown below, the filing deadline varies depending on the date on which the company is created or registered.

<u>Creation or registration date</u>	<u>Filing requirement</u>
Before 01/01/2024	On or before 01/01/2025
On or after 01/01/2024, but before 01/01/2025	90 calendar days after creation or registration.
On or after 01/01/2025	30 calendar days from creation or registration.
Updates or corrections	30 calendar days after the date of the change.

When to update or correct the BOI Report?

If there is any change to the required information about the company or its beneficial owners or the company becomes aware of a mistake in an already filed BOI Report, the company must file an update within 30 days after the date of the change or the date when it became aware of the mistake. Some examples that require to be updated or corrected are:

- A change to the initial information reported, such as registering a new business name (e.g., DBA).
- A change in beneficial owners, such as a new CEO, or a sale that changes ownership.
- Any change to a beneficial owner's name, address, or unique identifying number.

What are the penalties?

If the BOI Report, update, or correction is not timely filed, FinCEN could impose civil penalties, criminal penalties, or both. The penalties are as follows:

- Civil penalties: \$500 per day of noncompliance.
- Criminal penalties: \$10,000 fine, 2-year imprisonment, or both.

What do we plan to do going forward?

Pursuant to Title 26 of the United States Code, also known as the U.S. Internal Revenue Code, ("USC"), and IRS Circular Letter No. 230, we at KGT as Certified Public Accountants and a full-service accounting firm, are allowed to interpret tax-related matters under such Title. Since the BOI Report and its requirements **are not** within the scope of Title 26 of the USC, we will not provide services related to the BOI Report required by FinCEN, including but not limited to, the preparation, filing, updating, correcting, or advising on how to prepare, file, update or correct the BOI Report.

Based on the above, compliance with the CTA, including BOI reporting, is not within the scope of our engagements. We shall have no liability resulting from any failure to comply with the CTA. Information regarding the BOI reporting requirements can be found at www.fincen.gov/boi. Furthermore, beginning on January 1, 2024, KGT will not be assisting entities, domestic or foreign, in the process of creating or registering in the Registry of

Corporations and Entities of the Puerto Rico Department of State, as required by Act No. 164 of 2009, as amended, known as the Puerto Rico General Corporations Act.

Our decision has been reached considering the legal implications that may entail providing this service, and the professional limitations we have as an accounting firm to provide advice under Title 26 of the USC and IRS Circular Letter 230.

We are committed to keeping you up to date with all tax-related developments.

We strongly suggest you consult with your legal counsel if you have questions regarding the applicability of the CTA's reporting requirements and issues surrounding the collection of relevant beneficial ownership information.

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