Stock Yards Bank & Trust® | WEALTH MANAGEMENT & TRUST

Small Business Owners - Beneficial Ownership Information Reporting



Maria Tipton, J.D.
Wealth Advisor
(502) 625-9904
maria.tipton@syb.com

If you haven't heard about BOI reporting yet, or heard about it but don't know the details, please keep reading.

As of January 1, 2024 tens of millions of small businesses will need to file a beneficial ownership information (BOI) report with a branch of the U.S. Department of Treasury called the Financial Crimes Enforcement Network (better known as FinCEN). A failure to comply can result in a company and the individuals responsible for the non-compliance being subject to hefty civil and criminal fines and even possible jail time.

Does my small business have to file this report?

If you operate a corporation (S corp or C corp) or a limited liability company (LLC), a BOI report will have to be filed unless your corporation or LLC qualifies for an exemption. Corporations and LLCs are the only business entity types specifically referred to in the Rule. However, entities other than corporations and LLCs may also have to file. The key is whether you had to file a document with the Secretary of State or a similar office to create your company. Note that, while not addressed in the Rule, FinCEN has commented that it believes sole proprietorships and most general partnerships would not have to file a report unless they have filed a document with the state's Secretary of State for formation or reporting.

There are 23 exemptions allowed by the Corporate Transparency Act. If your corporation or LLC has more than 20 full-time employees, more than $5 million in gross receipts, and an operating presence at a physical office in the USA, it can qualify for an exemption granted to what is called a "large operating company." Certain types of inactive entities that were in existence on or before January 1, 2020 are also exempt. Most small corporations and LLCs will probably not qualify for an exemption, but you need to talk to your CPA or legal advisor to determine if you fall within one of the exemptions.

When, where, and how do I file this BOI report?

If you currently own a small business that has to file a BOI report, that report will have to be filed between January 1, 2024 and January 1, 2025. If you start a new company after January 1, 2024 and before January 1, 2025, you have to file the BOI report within 90 days of formation. Reporting companies formed on or after January 1, 2025 have to file within 30 days of receiving actual or public notice of their formation.

Your company's BOI report will be filed with FinCEN. It has to be submitted electronically through a filing system that will be located on FinCEN's website. There is no fee for filing the report. Note that this is a federal filing. There is no state filing involved.

What must be Reported?

The BOI report for your company will provide FinCEN with certain facts about the company – namely, its legal name and any d/b/a names it conducts business under, its address, jurisdiction of formation, and taxpayer identification number.

You will also have to provide FinCEN with personally identifiable information (that is, information from which an individual can be identified) for each beneficial owner. A beneficial owner is any individual who, directly or indirectly, exercises substantial control over a reporting company or who owns or controls at least 25% of a reporting company.

INVESTMENT AND INSURANCE PRODUCTS ARE:
Not FDIC Insured | Not Insured By Any Federal Government Agency
Not Bank Guaranteed | Not a Deposit | May Lose Value

For each beneficial owner of your company, you'll have to provide the individual's legal name, birthdate, home address, an identifying number from a driver's license, state ID, or passport, and an image of the document that the number is from. (Reporting companies formed on or after January 1, 2024 will also provide information about their company applicants.)

What happens if the information I reported changes or I realize it was inaccurate when the report was filed?

If any of the information reported about the company or any of its beneficial owners changes, or there is a change in who the beneficial owners are, an updated report has to be filed with FinCEN within 30 days of the change. If there was an inaccurate statement in the BOI report filed for your company, a corrected report has to be filed within 30 days of when you became aware of, or should have become aware of, the inaccuracy.

How will beneficial ownership reporting impact small business owners?

As you should now realize, the beneficial ownership information reporting requirement has a significant impact on many small business owners. As a small business owner, you have to figure out if your company has to file a report, and if so, you must report the personal information of the individuals who substantially control and own the company. And that information is kept in a database maintained by a federal agency. You must also keep track of all the information you reported and file updates when it changes.

And there are important decisions to be made, including when you want to file your report and whether you want to file directly or have a third party file for you. By complying, you can avoid the harsh penalties imposed by the Corporate Transparency Act on violators.

For filing your BOI report, go to https://www.fincen.gov/boi, or contact your attorney or CPA.

We provide the information in this article for general guidance only. It does not constitute the provision of legal advice, tax advice, accounting services, investment advice, or professional consulting of any kind. The information provided herein should not be used as a substitute for consultation with professional tax, accounting, investment, legal, or other competent advisers. Before making any decision or taking any action, you should consult a professional adviser who has been provided with all pertinent facts relevant to your particular situation. The information is provided "as is," with no assurance or guarantee of completeness, accuracy, or timeliness of the information, and without warranty of any kind, expressed or implied, including but not limited to warranties of performance, merchantability, and fitness for a particular purpose.

INVESTMENT AND INSURANCE PRODUCTS ARE:
Not FDIC Insured | Not Insured By Any Federal Government Agency
Not Bank Guaranteed | Not a Deposit | May Lose Value