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CKR Financial Services

monthly journal

HELPING OUR CLIENTS GAIN THE ADVANTAGE OVER THE COMPETITION

Corporate Transparency Act (and why CKR Financial Services cannot assist with this reporting requirement)

This month, we're discussing the Corporate Transparency Act. Let me try to explain what this is. First of all, it's a piece of legislation enacted by Congress – so there's the first shoe to drop. From the outset, it looks like a patriotic piece of legislation to protect America. I'd be for that. Enacted in 2021, the CTA is sold as a means to get ahead of shell companies, to combat illicit activity including tax fraud, money laundering, and financing for terrorism by capturing more ownership information for certain businesses operating in or accessing the country's market. Well, that sounds All-American and harmless. The requirement is for these businesses to fill out a Beneficial Ownership Information (BOI) report. Penalties for non-compliance are steep – up to a \$10,000 fine and up to 2 years in jail. New businesses have 90 days from the time of creation to complete the form and file. Existing businesses are required to file by the end of 2024. The enforcing body is the Financial Crimes Enforcement Network, known as

FinCEN, which is an arm of the US Department of the Treasury.

The BOI report will require the business name, current address, state of formation, and the tax ID for the entity. However, it goes further to require the name, birth date, address, and a copy of a government-issued photo ID such as a driver's license or passport of every direct and indirect owner. So far, I'm on board if it's going to route out bad players who use shell companies to finance illegal and subversive activities. But here's the thing. Who is being targeted by this? What businesses are being made to submit this report? All this time, I'm thinking large companies with huge profits because they would have the means to finance illegal activity. And here's where the other shoe drops. **THE CTA TARGETS SMALL BUSINESSES THAT ARE LLC AND S-CORPS WITH LESS THAN 20 EMPLOYEES OR LESS THAN 5 MILLION IN REVENUE.** Large businesses (more than 20 employees and over \$5 million in annual revenue) **DO NOT PARTICIPATE.** So, virtually all small



family businesses, including entities designed to hold only real estate and single-member LLCs, which are "disregarded" for income tax purposes, will need to report.

And here is where I lost my enthusiasm. If this is truly about stopping crime, can someone explain to me why small businesses are being targeted for this information? If you have less than 20 employees, you are probably self-managed and are far too busy working IN the business to be a part of some global terrorist organization. If you make less than 5 million dollars, your money is probably going into keeping your business afloat and paying off your EIDL loans instead of funding terrorist activities. To me, this is backwards.

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There has been quite a bit of opposition to this. Recently, Judge Liles C. Burke of the US District Court in Huntsville, AL sided with critics of the law agreeing that asking a company's owners to present personal data – names, addresses, and copies of IDs – was a case of congressional overreach, however well intended. In his 53-page filing, Judge Burke wrote that “Congress sometimes enacts smart laws that violate the Constitution. This case, which concerns the constitutionality of the Corporate Transparency Act illustrates that principle.” The Justice Department will most certainly appeal the Alabama case to the circuit court. And Judge Burke's ruling, read narrowly, only applies to the small businesses represented in the case brought before him. That would be the 65,000 member companies represented by the National Small Business Association, which filed the case in Alabama, calling the CTA unconstitutional. However, if this does continue up the circuit court chain, it

could serve as a precedent for other businesses. Returning to the filing requirements, in addition to the initial filing, there are requirements to update the original filing when things change. Some things are easy to overlook, such as a name change when a Beneficial Owner gets married or when someone changes their address to a new residence. Some of the things that require an update are not things an owner has ever thought were important to track, and the timeline to report these changes can be as short as 30 days. We have already been approached to assist some of our clients with filing their forms. Unfortunately, we are unable to provide this service. We can provide clients with reports and data (such as their P&Ls or Balance Sheets), but there are some issues in this legislation that could require interpretation of facts – and that is where you get into LEGAL territory. We suggest contacting a reputable Asset Protection Attorney, such as Rick Cunningham, for legal counsel. We will not engage in

Rick Cunningham Law 702-706-3645

“Most people start out with completely unrealistic expectations of what level of effort is required and how long it takes to get a business off the ground. They are easily discouraged and give up way too soon. I blame it on wishful thinking. The reality is that there is no way to know how long it will take or whether it will work at all. So my advice is to approach it with humility, grit, and a willingness to do whatever it takes to succeed, even if that means you have to work really hard for a long time.”

-Ilise Benun

Success is not final; failure is not fatal:
It is the courage to continue that counts.

-Winston S. Churchill

Perfectionism cripples a lot of entrepreneurs. They won't launch their site or put their product up for sale until they think it's perfect, which is a big waste of time. It's never going to be perfect.

-Lewis Howes

legal discussions or filings as our insurance does not cover those activities. Also, misrepresentation, whether intentional or in error, can result in both civil and criminal charges. Hence why we cannot assist in this process with counsel or filing.

People keep asking: “Where's My Refund?” Log in to <https://www.irs.gov/wheres-my-refund> and click the button “Check your refund”. You will need your SSN, filing status (single/married/head of household), and the exact refund amount on your return.

BOOKKEEPING, PAYROLL, TAX PREPARATION, HR-ON-DEMAND.

LET US KNOW HOW WE CAN HELP YOU.

New Service Offered by CKR Financial Services
Your Partner in All Things Business

