



This article presents general guidelines for Ohio nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.

Nonprofits and the New Corporate Transparency Act: Does Your Nonprofit Need to Report Beneficial Ownership Information to the Financial Crimes Enforcement Network (FinCEN)?

Bryan Pautsch, CPA, J.D. and James Alex Bramer, CPA, Dean Dorton

Beneficial Ownership Information ("BOI") reporting is a new federal law requirement estimated to impact more than 30 million businesses and nonprofits. Under the Corporate Transparency Act ("CTA"), which was enacted in 2021, certain companies are required to provide information related to their "beneficial owners" – the individuals who ultimately own or control the company – to the Financial Crimes Enforcement Network ("FinCEN"). Failure to do so may result in civil or criminal penalties or both.

The CTA is intended to reduce exposure to serious crimes, including terrorist financing, money laundering, and other nefarious activities. But it could also open the door to inspection of family offices, investment angels, and other private individuals who have generally been shielded from scrutiny in the past. A business that's characterized as a "reporting company" has either 30 days or one year to comply with the new rules.

Nonprofit organizations are "reporting companies" and must determine whether they are required to report or whether an exemption exists. The remainder of this article will discuss the most common exemptions from the BOI reporting requirements for nonprofit organizations.

These types of nonprofit organizations ARE NOT subject to the new BOI reporting.

Tax-Exempt Organizations under Section 501(c)

Current Section 501(c) organizations, regardless of whether they have applied for tax-exempt status or have self-declared. This includes most charitable organizations, educational institutions, trade associations, social clubs, fraternal organizations, private foundations, labor organizations among others. Remember, to be exempt from the CTA reporting requirements, a nonprofit organization must also be tax-exempt.

Certain Political Organizations

A political organization defined in Section 527(e)(1) that is tax-exempt under Section 527(a). A political organization is a party, committee, association, fund, or other organization (whether or not incorporated) that is organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function. The exempt function of a political organization is influencing or



attempting to influence the selection, nomination, election, or appointment of an individual to a federal, state, or local public office or to an office in a political organization.

Certain Charitable or Split Interest Trusts that are Not Tax-Exempt

A charitable trust under Section 4947(a)(1) or a split interest trust under Section 4947(a)(2).

Certain Controlled or Owned Subsidiaries

Also excluded from the BOI reporting requirements are entities that are controlled or wholly owned by tax-exempt organizations, political organizations, or trusts as described above.

Subsidiaries that are not 100% owned by the entities listed above would be subject to the BOI reporting requirements. The definition of “control” is not fully defined.

Nonprofit organizations that MAY be subject to the BOI reporting requirements include:

- **A nonprofit that does not intend to obtain tax-exempt status from the IRS.**
- **A new nonprofit organization that does not intend to be a tax-exempt organization.**
- **A Section 501(c) organization who loses their tax-exempt status.**
- **Certain Homeowners Associations under Section 528.**
- **An organization filing Form 1023 but who has not yet received a favorable determination letter.**
- **Subsidiaries that are neither wholly owned nor controlled.**

If a nonprofit entity does not qualify for one of the exemptions listed above, the nonprofit may still qualify for another exemption from BOI reporting. It is important for a nonprofit to determine whether it is required to comply with BOI reporting. **Consider consulting with legal counsel if you have questions regarding the applicability of the CTA’s reporting requirements, the exemptions available for nonprofits, or the collection of relevant information.**

If a nonprofit is subject to the BOI reporting requirements, below is additional information about the requirements provided in the following questions and answers.

Is BOI reporting a new requirement?

Yes. BOI reporting is a new requirement created by the Corporate Transparency Act (“CTA”), which became law in 2021. BOI reporting aims to provide the government with resources to crack down on anonymous shell companies used by money launderers and criminals. However, the CTA is far-reaching, and most legitimate, small businesses will be subject to BOI reporting.



Who is a beneficial owner?

A beneficial owner is an individual who either directly or indirectly: (1) exercises substantial control over the reporting company, or (2) owns or controls at least 25% of the reporting company's ownership interests. For more information on beneficial owners, including the meaning of "substantial control" and "ownership interest," we recommend reviewing the Frequently Asked Questions ("FAQs") posted by FinCEN, which are available at <https://www.fincen.gov/boi-faqs>.

Who is a company applicant?

As an initial matter, *only* reporting companies created or registered on or after January 1, 2024, will need to report their company applicants. Up to two individuals could qualify as a company applicant: (1) the individual who directly files the document that creates or registers the company, and (2) if more than one person is involved in the filing, the individual who is primarily responsible for directing or controlling the filing. In many cases, company applicants will be a lawyer, a law firm, or an entity formation company.

What type of information must be reported?

A reporting company will be required to report the following information about its beneficial owners and company applicants: the individual's name, date of birth, address, and an identifying number from an acceptable identification document, such as a passport or U.S. driver's license, as well as the name of the issuing state or jurisdiction. A copy of the identification document must also be provided.

Generally, BOI reports also must include the reporting company's legal name, any trade names, the current street address of its principal place of business, its jurisdiction of formation or registration, and its tax identification number.

When do I have to report this information?

The deadlines for filing BOI reports depend on when the reporting company was created. The following chart illustrates the filing deadlines. Note that organizations formed in 2024 have only ninety (90) days to file their BOI report.

Creation or Registration Date of Company	Filing Deadline
On or after January 1, 2024, but before January 1, 2025	Within 90 days of creation or registration
Before January 1, 2024	Before January 1, 2025
On or after January 1, 2025	Within 30 days of creation or registration



What if there is a change in the information reported?

If there is *any change* to the information reported about the company or its beneficial owners, an updated report must be filed no later than *30 days* after the date of the change. Likewise, if a BOI report is inaccurate, the company must correct it no later than *30 days* after it becomes aware of the inaccuracy or has reason to know about it.

Is there an annual requirement to file a BOI report?

No. There is no annual reporting requirement. Reporting companies must file an initial BOI report and corrected or updated BOI reports as needed.

How will I file my BOI report?

BOI reports will be filed electronically through a secure filing system on FinCEN's website. This system is currently being developed and is scheduled to be operational on January 1, 2024.

Does every company have to file, or are there exemptions?

There are 23 types of entities that are exempt from BOI reporting. Exempt entities include publicly traded companies meeting certain requirements, many nonprofits, and entities that qualify as a "large operating company." Generally, a large operating company is an entity that employs more than 20 full-time employees in the U.S., has an operating presence at a physical office in the U.S., and filed a federal income tax or information return in the U.S. for the previous year showing more than \$5,000,000 in gross receipts or sales. More information on exemptions is available in [FinCEN's FAQs](#).

Who will have access to the BOI reports filed with FinCEN?

Federal, state, local, and Tribe officials and certain foreign officials who submit a request through a U.S. government agency will be permitted to obtain BOI for authorized national security, intelligence, and law enforcement activities. Financial institutions may also access BOI in certain circumstances, with the consent of the reporting company. BOI reported to FinCEN will be stored in a secure, non-public database.

Where can I get more information?

In addition to its FAQs, FinCEN has issued a "Small Entity Compliance Guide." The compliance guide and other resources and reference materials are available on FinCEN's website at <https://www.fincen.gov/boi>. Also, FinCEN has stated it will continue to provide guidance, information, and updates related to the BOI reporting requirements. Subscribe [here](#) to receive updates via email from FinCEN.

You have sole responsibility for your compliance with the CTA, including its BOI reporting requirements and the collection of relevant ownership and other information. Information regarding the BOI reporting requirements can be found at <https://www.fincen.gov/boi>. Consider consulting with legal counsel if you have questions regarding the applicability of the CTA's reporting requirements or the collection of relevant information.



Need Legal Advice?

If you are a PBPO client and have questions regarding the content of this article or need legal assistance, please contact us at info@pbpohio.org or (513) 977-0304.

Not a Client? Apply to become a client by submitting a [Request for Legal Assistance online](#), or contact us at info@pbpohio.org.

About the Authors:

[Bryan Pautsch](#) is Tax Principal and James Alex Bramer is Tax Manager of Dean Dorton's Nonprofit Tax Practice.