



BARBERA & WATKINS, LLC

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1. IRS Audits: The IRS announced plans to begin dozens of audits on business aircraft involving personal use as part of the IRS Large Business and International division's "campaign" program. See <https://www.irs.gov/newsroom/irs-begins-audits-of-corporate-jet-usage-part-of-larger-effort-to-ensure-high-income-groups-dont-fly-under-the-radar-on-tax-responsibilities>. The initial audits will focus on large corporations, large partnerships and high-income taxpayers and will examine the allocation between business use and personal use and related income and deductions, as well as record-keeping. In order to ensure compliance with FAA and tax law, it may be time to reexamine your structure, the implementation of your structure and your record-keeping and accounting processes, both retrospectively and prospectively.
2. Corporate Transparency Act: The Corporate Transparency Act (CTA) went into effect January 1, 2024 and requires reporting company Beneficial Owner Information Reporting to Financial Crimes Enforcement Network (FinCEN) at the Department of Treasury. See <https://www.fincen.gov/boi>. Reporting companies generally include corporations, limited liability companies or other entities created by the filing of a document with a secretary of state or any similar office under the law of a State or Indian tribe. Reporting companies created or registered to do business in the United States (i) before January 1, 2024 must file by January 1, 2025, (ii) in 2024 have 90 calendar days to file, and (iii) in and after 2025 have 30 calendar days to file. There are a number of specific exemptions including, but not limited to, public companies (securities reporting issuer), banks, certain large operating companies, subsidiaries of certain exempt entities and inactive entities. There is still some uncertainty surrounding who is required to file, such as an aircraft owner trust where the trustor/beneficial owner is exempt, but the trustee is not. There are strict confidentiality, security, and access restrictions on the data collected by FinCEN. There may be civil penalties up to \$500 for each day (and not more than \$10,000) and potential imprisonment for up to 2 years for willfully failing to report complete or updated beneficial ownership information or for willfully providing, or attempting to providing, false or fraudulent beneficial ownership information to FinCEN. We would note that a judge in the United States District Court for the Northern District of Alabama recently ruled that the CTA is unconstitutional, but the order only enjoined FinCEN from enforcing the CTA against the plaintiffs in that case and the order is being appealed. See Nat'l Small Bus. United v. Yellen, No. 5:22-cv-1448-LCB (N.D. Ala. Mar. 01, 2024).

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