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QUARTERLY

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About WBS

Williams, Bax & Saltzman, P.C. is a full-service law firm, representing and advising businesses and individuals. Our attorneys are committed to providing value-added services to our clients in a cost-effective manner.

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- Commercial Litigation
- Corporate
- Labor and Employment
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- Insurance
- Professional Liability
- Product Liability
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- Estate Planning, Trust Administration and Probate

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ILLINOIS PAID LEAVE FOR ALL WORKERS ACT

The Illinois Paid Leave for All Workers Act (the "Act") takes effect January 1, 2024. The Act makes all employees in Illinois eligible to earn a minimum of 40 hours of paid leave during a 12-month period to be used for any reason. Below is a brief summary of the Act's requirements.

Accrual of Paid Leave

- Employees are eligible to earn a minimum of 40 hours of paid leave during a 12-month period.
- The 12-month period may be any consecutive 12-month period designated by the employer in writing at the time of an employee's hire.
- For every 40 hours worked, an employee will earn 1 hour of paid leave.
- An employee may begin to accrue paid leave at the start of employment or on the effective date of the Act, whichever is later.
- An employer may grant 40 hours of paid leave to an employee on the first day of employment or the first day of the 12-month period.

Usage

- An employee may:
  - begin using paid leave 90 days following commencement of their employment or 90 days following the effective date of the Act, whichever is later.
  - Take paid leave for any reason of the employee's choosing.
  - choose whether to use paid leave provided under the Act prior to using any other leave provided by the employer or State law.
- An employer may set a reasonable minimum increment for the use of paid leave not to exceed 2 hours per day.

Carry Over

- Employees are entitled to carry over annually any unused paid leave. However, an employer is not required to provide more than 40 hours of paid leave for an employee in a 12-month period.
- An employer that grants 40 hours of paid leave to an employee on the first day of employment or the first day of the 12-month period is not required to permit an employee to carry over unused paid leave.

Notice Requirements

- An employee is not required to provide an employer with a reason for taking paid leave and may not be required to provide documentation or certification as proof or in support of the leave.
- If use of paid leave is foreseeable, an employer may require the employee to provide 7 calendar days' notice before the date the leave is to begin.
- If use of paid leave is not foreseeable, an employee shall provide such notice as soon as is practicable after the employee is aware of the necessity of taking leave.
- An employer requiring notice of paid leave shall provide a written policy containing procedures for employees to provide notice when the paid leave is not foreseeable.

Separation

- An employer
  - is not required to pay an employee's unused paid leave upon the employee's termination, resignation, retirement, or other separation from employment.
  - shall pay the employee any unused paid leave upon the employee's termination, resignation, retirement, or other separation if the paid leave under the Act is credited to an employee's paid time off bank or employee vacation account.

(cont. on page 2)

Record Keeping

- An employer shall make and preserve records documenting hours worked, paid leave accrued and taken, and remaining paid leave balance for each employee for a period of not less than 3 years and shall allow the Department access to such records, at reasonable times, to monitor compliance with the requirements of this Act.
- An employer that provides employees with 40 hours of paid leave on the first day of employment or the first day of the 12-month period shall provide notice of the amount of paid leave accrued or used by an employee upon request by the employee.

Postings

- An employer shall post and keep posted in a conspicuous place on the premises of the employer where notices to employees are customarily posted, and include it in a written document, a notice, to be prepared by the Department, summarizing the requirements of this Act upon commencement of an employee's employment or 90 days following the effective date of the Act, whichever is later.

* * *

Employers should monitor the Illinois Department of Labor website for the publication of the mandatory poster as well as additional guidance and regulations that would further clarify employer and employee responsibilities under this new law. WBS labor and employment attorneys are available to assist in all aspects of compliance with the Act.

CORPORATE TRANSPARENCY ACT SUMMARY

What is the CTA?

The Corporate Transparency Act (the “CTA”) is an Act that seeks to prevent money-laundering schemes via shell companies by requiring small companies and LLCs to provide identifying information to the Financial Crimes Enforcement Network (“FinCEN”).

Who Does the CTA apply to?

The CTA applies to all corporations and LLC’s EXCEPT:

- Banks
- Insurance companies
- Investment funds
- Charities
- Public companies
- Broker dealers
- Public accounting firms
- Public utilities
- Pooled investment vehicles that are operated by banks or register investment advisors
- Entities that have:
  a. 20+ full-time employees;
  b. filed in the previous year federal income tax returns in the United States demonstrating more than $5,000,000 in gross receipts or sales; AND
  c. an operating presence at a physical office within the United States.
- Companies or LLCs of which the ownership interests are owned or controlled by one or more entities.

What do reporting companies report?

Each applicant to form a corporation or an LLC must report (1) business information, (2) beneficial ownership information, and (3) company applicant information (information about the applicant entering the filing. Applicants must provide the following business information:

- Full legal name of company;
- Any trade name or “doing business as” name;
- Current address;
- Jurisdiction of formation;
- Federal taxpayer ID number.

Applicants must provide the following information about themselves (applicants are often beneficial owners themselves, but this may include third parties such as attorneys or paralegals filing corporate formation documents on behalf of clients) as well as all beneficial owners:

- Full legal name;
- Date of birth;
- Current residential or business address;

- A unique identifying number from a non-expired passport issued by the United States, a non-expired personal identification card, or a non-expired driver's license issued by a State.

What is a beneficial owner?
A beneficial owner:

- exercises substantial control over a corporation or limited liability company;
- owns 25 percent or more of the equity interests of a corporation or limited liability company; or
- receives substantial economic benefits from the assets of a corporation or limited liability company.

The above "substantial control" is defined as when an individual (1) serves as a senior officer of the company, (2) has authority over the appointment or removal of any senior officer or a majority of the board; or (3) directs, determines, or has substantial influence over important decisions made by the reporting company.
The above "substantial economic benefits" has not been defined.
Exceptions to beneficial owners include:

- minor children;
- an individual acting as an agent of a beneficial owner;
- an employee whose substantial control over or economic benefits from the entity are derived solely from the employment status (provided that the person is not a senior officer of the entity);
- an individual whose only interest in the reporting company is a future interest through right of inheritance;
- a creditor of the reporting company.

How do reporting companies report?
FinCEN is building an IT system called the Beneficial Ownership Secure System ("BOSS"). The system is not available yet; reports will not be accepted prior to January 1, 2024.
Can the process be streamlined?

Individuals may report their own beneficial owner information to FinCEN for a "FinCEN identifier." This will allow individuals that are beneficial owners of several reporting companies to simply report their individual FinCEN identifier to each company, rather than all elements otherwise required.

When will reporting companies report?
Companies created after January 1, 2024, that fall under the "reporting company" designation must file their report within 30 days of notice of their formation. Existing companies that fall under the "reporting company" designation must report their corporation or LLC by January 1, 2025.

What happens after filing?
Once the report has been filed and the filing fee has been paid ($85), entities will be issued a FinCEN identification number. Any further changes must be filed within 30 days of the change. Annual filings are required and will include the current register of beneficial owners of the corporation or LLC, as well as any changes in beneficial owners during the previous year.

How should companies prepare to file with FinCEN?
Existing companies should review whether they fall under the "reporting company" designation, as well as review their corporate structures. Companies can create an internal register and stay up to date on changes. FinCEN offers assistance with compliance:

> FinCEN will develop compliance and guidance documents to assist reporting companies in complying with this rule. Some of these materials will be aimed directly at, and made available to, reporting companies themselves. FinCEN will issue a Small Entity Compliance Guide, pursuant to section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996, in order to inform small entities about their responsibilities under the rule. Other materials will be aimed at a wide range of stakeholders that are likely to receive questions about the rule, such as secretaries of state and similar offices. FinCEN also intends to conduct extensive outreach to all stakeholders, including industry associations as well as secretaries of state and similar offices to ensure the effective implementation of the rule. [*Beneficial Ownership Information Reporting Rule Fact Sheet*, FinCEN (September 2022), https://www.fincen.gov/beneficial-ownership-information-reporting-rule-fact-sheet.]

What if you don't file?
Penalties for willfully violating the CTA reporting requirements may include:

- Civil penalties of $500 per day that a violation is not remedied,
- A criminal fine of up to $10,000, and/or
- Imprisonment of up to two years.

What should you be looking out for?
FinCEN will publish (in the Federal Register) the reporting forms that persons will use to comply with their obligations under the BOI reporting rule. FinCEN will publish these forms "well in advance of the effective date of the BOI reporting rule." These forms have not yet been published, nor has a specific date been given.