

2023 Inflation Adjustment Amounts

The IRS recently released inflation-adjusted exemption and exclusion amounts for 2023. Important exclusion and exemption amounts for 2023 are as follows:

- The annual per donee gift tax exclusion amount increases from \$16,000 in 2022 to \$17,000 in 2023 (or \$34,000 for a married couple).
- The lifetime gift and estate tax exemption amount increases from \$12,060,000 in 2022 to \$12,920,000 in 2023 (or \$25,840,000 for a married couple).
- The generation-skipping transfer tax exemption also increases from \$12,060,000 in 2022 to \$12,920,000 in 2023 (or \$25,840,000 for a married couple).
- The annual exclusion for gifts to a noncitizen spouse increases from \$164,000 in 2022 to \$175,000 in 2023.
- Additionally, trusts and estates will be taxed at the highest marginal income tax rates starting at \$14,450 of taxable income in 2023, up from \$13,450 in 2022.

New York has not yet announced its estate tax exemption amount for 2023. Currently, the New York estate tax exemption amount is \$6,110,000. The Connecticut gift and estate tax exemption amount will match the federal exemption beginning in 2023.

Final Regulations on Beneficial Ownership Effective Beginning January 1, 2024

The Treasury Department's Financial Crimes Enforcement Network (FinCEN) has issued final regulations on beneficial ownership reporting under the Corporate Transparency Act (CTA). The CTA was enacted in early 2021 in order to require certain business entities to report information on their individual owners. The purpose of the reporting requirement is to aid FinCEN in combatting money laundering, terrorist financing, and other financial crimes. We have summarized below some of the rules contained in the final regulations.

The final regulations will not go into effect until 2024. Nevertheless, it is important for clients to be prepared to bring all of their existing reporting entities into compliance starting January 1, 2024. In addition, clients will need to arrange for timely reporting of beneficial ownership information in the case of all entities formed beginning in 2024, as well as changes in beneficial ownership requiring updated reports to be filed.

Clients who would like assistance in CTA compliance or have any questions about the final regulations should contact us as soon as convenient.

Effective date. The final regulations go into effect January 1, 2024. Domestic reporting entities created before that date will have until January 1, 2025 to file reports of their beneficial owners. Domestic reporting entities created on or after January 1, 2024 will have 30 days to file. Similar deadlines apply to foreign reporting entities depending on when they registered to do business in the U.S.

Once the final regulations become effective, reporting entities will also have 30 days to file updated reports if there is a change in information previously reported or if mistakes in previously reported information are discovered.

FinCEN has not yet released a draft beneficial ownership reporting form.

Reporting entities. In general, a domestic reporting entity includes a business entity, such as a corporation, limited liability company, or limited partnership, that was created by the filing of a document with a secretary of state. Foreign entities are required to report only if they are registered to do business in the U.S. Trusts, joint ventures, general partnerships, and other arrangements are not reporting entities.

Twenty-three categories of entities are exempt from the beneficial ownership reporting requirements. In general, the exemptions apply to public traded companies, entities that are already regulated (such as banks), entities that are tax-exempt under section 501(c), and large operating businesses. Subsidiaries whose ownership interests are controlled or wholly owned by exempt entities are likewise exempt.

Beneficial owners and company applicants. A reporting entity must report information on all of its “beneficial owners.” “Beneficial owners” are defined to include both individuals who, directly or through any arrangement (including trusts), own or control at least 25% of the ownership interests in a reporting entity and individuals who exercise substantial control over the entity. Substantial control includes service as a senior officer (such as president, CEO, or CFO) and possession of a power to appoint or remove any senior officer (such as the powers of a board of directors). Under a catchall category, substantial control also means the power to direct or exercise substantial influence over important decisions made by the entity.

Entities formed on or after January 1, 2024 must also report information on their “company applicants.” A “company applicant” means the individual who filed the paperwork to form the entity and the individual primarily responsible for directing that individual.

Information on beneficial owners. The information on beneficial owners that an entity must report includes each beneficial owner’s legal name, date of birth, residential address (but office address for certain company applicants), and a unique identifying number from an acceptable identification document, such as a passport or driver’s license. Scans of the identification documents must also be provided.

Reporting companies and beneficial owners or applicants of multiple entities may obtain a FinCEN identifier in lieu of the information required to be reported. A FinCEN identifier is obtained by providing FinCEN with the information described above.

Safeguarding of information. The CTA imposes significant restrictions on the sharing of beneficial ownership information. The Treasury Department is directed to maintain the information using methods “at the highest security level.” FinCEN is currently developing rules (which have not yet been announced) on how beneficial ownership information will be used and safeguarded.

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