TAX AND TRUSTS & ESTATES UPDATE

Sherman Atlas Sylvester & Stamelman

The New Corporate Transparency Act

On January 1, 2024, a new Federal law called the Corporate Transparency Act ("CTA") goes into effect, with the purpose of creating a national database of entities operating in the United States and identifying their owners and control persons as part of an increasing effort to combat money-laundering, terrorism, tax evasion, and other financial crimes.

The CTA will require almost all LLCs, corporations, limited partnerships, and other closely held entities formed and/or operating in the United States (referred to as "reporting companies") to register with the U.S. Department of the Treasury's Financial Crimes Enforcement Network ("FinCEN"). Notable exemptions include public corporations, certain larger private operating companies, tax-exempt entities, and other categories of entities that are already required to disclose significant identifying information under current law.

In this issue

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TAX AND TRUSTS & ESTATES UPDATE

The information that must be provided to FinCEN under the CTA is in addition to, and is significantly more burdensome than, the information you may be accustomed to filing in annual reports in the jurisdiction of organization of your reporting companies. In addition to requiring information about the reporting company, the CTA also requires identifying information regarding each "beneficial owner" of the reporting company.

The definition of a beneficial owner under the CTA is broad and generally includes anyone who either exercises "substantial control" over a reporting company or owns or controls at least 25% of a reporting company's ownership interests. The determination of what constitutes "substantial control" of an entity is fact-based but, at a minimum, includes anyone who directs or has substantial influence over important decisions of the reporting company, such as directors and senior officers and those with the power to appoint or remove officers and directors.

For all existing entities, the deadline to register with FinCEN and provide all required information is January 1, 2025. However, all entities newly formed on or after January 1, 2024 will have 30 days from the date of formation to register with FinCEN.

Additionally, once a reporting company has registered with FinCEN, it will be required to report any change to the information set forth in its FinCEN filing within 30 days of the date of such change. There are stiff civil and criminal penalties for failing to timely register and make all required filings – these include $500 per day of civil penalties, and criminal fines of up to $10,000, two years in prison, or both.

If you own any interest in an LLC, private corporation, or limited partnership, or if you are a director, manager, or senior officer of such an entity (even if you do not have any ownership interests in such entity), then you may be subject to these new filing requirements. If you have questions about the foregoing or would like our assistance in complying with CTA requirements, please reach out to one of your Sherman Atlas contacts and we can discuss what's involved and how we can assist.

Note that on December 13, the House of Representatives passed a bill that may extend deadlines for FinCEN filings for existing entities. At the time of this alert, it is uncertain whether these or other changes will be enacted before the January 2024 commencement date.

TAX AND TRUSTS & ESTATES UPDATE

2024 Inflation Adjustments

With the new year will come new inflation adjustments for a number of tax-related items. As families and businesses are feeling the pinch of high inflation, the substantial inflation-adjusted tax changes coming in 2024 can provide meaningful benefits and planning opportunities.

Some of the more significant changes that will take effect on January 1, 2024, are listed below.

Estate and Gift Adjustments

Unified Credit Against Estate, Gift, and Generation-Skipping Transfer (GST) Taxes: The basic exclusion amount is now $13,610,000 (up from 12,920,000) for a single person and $27,220,000 for a married couple (up from $25,840,000).

The New York exemption from state estate tax has increased to $6,940,000 in 2024, up from $6,580,000 in 2023.

New Jersey continues to have no estate tax for residents who passed away after December 31, 2017, but the New Jersey inheritance tax remains in place.

Annual Gift Tax Exclusion: The first $18,000 (up from $17,000) to any person, other than gifts of future interests in property, is not included in the total amount of taxable gifts made during the year by a single person.

Annual Exclusion for Gifts to a Non-Citizen Spouse: The first $185,000 (up from $175,000) of gifts to a spouse who is not a citizen of the United States, other than gifts of future interests in property, is not included in the total amount of taxable gifts made during the year.

The $100,000 threshold for reporting gifts or bequests from a nonresident alien or foreign estate did not increase in 2024; accordingly, gifts in excess of $100,000 during the year 2024 from a nonresident alien or foreign estate must be reported.

Personal Income Tax Adjustments

Application of the Highest Tax Rate: The tax rate of 37% affects single filers whose income exceeds $609,350 (up from $578,125) and $731,200 for married joint filers (up from $693,750).

Standard Deduction: The 2024 standard deduction rises to $14,600 for single filers (up from $13,850) and to $29,200 for married couples filing jointly (up from $27,700

TAX AND TRUSTS & ESTATES UPDATE

Exemption Amounts for Alternative Minimum Tax: The 2024 Alternative Minimum Tax exemption amount is $85,700 for single filers (up from $81,300) and $133,300 for joint filers (up from $126,500).

Retirement Saving Adjustments

Retirement Plan Contribution Limits: The contribution limit for 401(k), 403(b) and most 457 plans is $23,000 in 2024 (up from $22,500); the additional catch-up contribution limit for these plans for taxpayers who are age 50 or older will remain at $7,500.

The maximum contribution to IRAs is $7,000 (up from $6,500), with the additional catch-up contribution limit for taxpayers who are age 50 or older remaining at $1,000.

Deduction for Traditional IRA Contributions: The deduction for a traditional IRA for single people and heads of household covered by a workplace retirement plan will phase out at adjusted gross income between $77,000 and $87,000 (up from between $73,000 and $83,000).

For married couples filing jointly, the income phase-out will be between $123,000 and $143,000 when the IRA contributor is covered by a workplace retirement plan (up from between $116,000 and $136,000), and between $230,000 and $240,000 (up from between $218,000 and $228,000) when the IRA contributor is not covered at work but is married to someone who is.

Maximum Roth IRA Contributions: For Roth IRAs, the income phase-out range is between $230,000 and $240,000 for married couples filing jointly (up from between $218,000 and $228,000). For singles and heads of household, the income phase-out range is between $146,000 and $161,000 (up from between $138,000 and $153,000).

Sherman Atlas Continues to Expand its Tax & Trust & Estates Group

As Sherman Atlas continues to expand, we would like to welcome two new attorneys and a new paralegal to the Tax and Trusts & Estate Group

Welcome to the team!

Alison Schrag, Raymond V.J. Schrag, and Elrie Du Plessis, formerly of The Law Offices of Raymond V.J. Schrag, are joining us as a partner, of counsel, and paralegal, respectively. They will primarily work out of our New York office.

TAX AND TRUSTS & ESTATES UPDATE

Alison Schrag, Partner

Alison has extensive experience in estate planning, probate, trust and estate administration, as well as having a robust litigation background. She is well-versed in representing fiduciaries in various trust and estate litigation matters, including contested accounting proceedings and breach of fiduciary duty claims. Alison regularly speaks on estate and tax planning and estate administration topics.

Alison is a graduate of Colgate University, and she received her law degree from Brooklyn Law School. She began her career as an associate at Hahn & Hessen LLP.

Raymond V.J. Schrag, Of Counsel

Raymond has over 40 years of experience representing a diverse clientele. His areas of expertise encompass estate planning, trust and estate administration, estate tax preparation and disputes, and charitable planning. Notably, Raymond has a niche practice representing artists in estate planning, administration, and valuation issues.

Raymond's commitment to the community is equally impressive, as he serves as the President of the Board of Directors of Self help Community Services, Inc., is a member of the Board of the Leo Baeck Institute, and is involved in the Committee for Planned Giving of the Weizmann Institute of Science. Raymond is a graduate of the University of Chicago, and he received his law degree from Fordham Law School.

Elrie Du Plessis, Paralegal

Elrie is involved with all aspects of the estate planning and estate administration process. She holds a Bachelor of Arts (Law) degree from the University of Stellenbosch in South Africa and a Bachelor of Laws (LLB) degree from the University of Pretoria in South Africa. She also graduated law school at the University of Pretoria and practiced law in South Africa.

TAX AND TRUSTS & ESTATES UPDATE

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