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# FinCEN Removes BOI Reporting Requirement for U.S. Companies, U.S. Persons

*FinCEN Interim Final Rule RIN 1506-AB49; FinCEN News Release*

The Financial Crimes Enforcement Network (FinCEN) has removed the requirement that U.S. companies and U.S. persons must report beneficial ownership information (BOI) to FinCEN under the Corporate Transparency Act. This interim final rule is consistent with the Treasury Department's recent announcement that it was suspending enforcement of the CTA against U.S. citizens, domestic reporting companies, and their beneficial owners, and that it would be narrowing the scope of the BOI reporting rule so that it applies only to foreign reporting companies.

The interim final rule amends the BOI regulations by:

- changing the definition of "reporting company" to mean only entities that are formed under the law of a foreign country and that have registered to do business in any U.S. State or Tribal jurisdiction by filing of a document with a secretary of state or similar office (these entities had formerly been called "foreign reporting companies"), and
- exempting entities previously known as "domestic reporting companies" from BOI reporting requirements.

Under the revised rules, all entities created in the United States (including those previously called "domestic reporting companies") and their beneficial owners are exempt from the BOI reporting requirement, including the requirement to update or correct BOI previously reported to FinCEN. Foreign entities that meet the new definition of "reporting company" and do not qualify for a reporting exemption must report their BOI to FinCEN, but are not required to report any U.S. persons as beneficial owners. U.S. persons are not required to report BOI with respect to any such foreign entity for which they are a beneficial owner.

## Reducing Regulatory Burden

On January 31, 2025, President Trump issued Executive Order 14192, which announced an administration policy "to significantly reduce the private expenditures required to comply with Federal regulations to secure America's economic prosperity and national security and the highest possible quality of life for each citizen" and "to alleviate unnecessary regulatory burdens on the American people."

Consistent with the executive order and with exemptive authority provided in the CTA, the Treasury Secretary (in concurrence with the Attorney General and the Homeland Security Secretary) determined that BOI reporting by domestic reporting companies and their beneficial owners "would not serve the public interest" and "would not be highly useful in national security, intelligence, and law enforcement agency efforts to detect, prevent, or prosecute money laundering, the financing of terrorism, proliferation finance, serious tax fraud, or other crimes." The preamble to the interim final rule notes that the Treasury Secretary has considered existing alternative information sources to mitigate risks. For example, under the U.S. anti-money laundering/countering the financing of terrorism regime, covered financial institutions still have a continuing requirement to collect a legal entity customer's BOI at the time of account opening (see 31 CFR 1010.230). This will serve to mitigate certain illicit finance risks associated with exempting domestic reporting companies from BOI reporting.

BOI reporting by foreign reporting companies is still required, because such companies present heightened national security and illicit finance risks and different concerns about regulatory burdens. Further, the preamble points out that the policy direction to minimize regulatory burdens on the American people can still be achieved by exempting foreign reporting companies from having to report the BOI of any U.S. persons who are beneficial owners of such companies.

## Deadlines Extended for Foreign Companies

When the interim final rule is published in the Federal Register, the following reporting deadlines apply:

- Foreign entities that are registered to do business in the United States *before* the publication date of the interim final rule must file BOI reports no later than 30 days from that date.
- Foreign entities that are registered to do business in the United States *on or after* the publication date of the interim final rule have 30 calendar days to file an initial BOI report after receiving notice that their registration is effective.

## Effective Date; Comments Requested

The interim final rule is effective on the date of its publication in the Federal Register.

FinCEN has requested comments on the interim final rule. In light of those comments, FinCEN intends to issue a final rule later in 2025.

Written comments must be received on or before the date that is 60 days after publication of the interim final rule in the Federal Register.

Interested parties can submit comments electronically via the Federal eRulemaking Portal at http://www.regulations.gov. Alternatively, comments may be mailed to Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. For both methods, refer to Docket Number FINCEN-2025-0001, OMB control number 1506-0076 and RIN 1506-AB49.

## 2024 Annual Advance Pricing and Mutual Agreement Report Announced

The IRS announced the 26th annual advance pricing and mutual agreement report covering the calendar year 2024. This announcement, based on the report submitted by the Secretary of the Treasury, contains the advance pricing agreements (APAs) and the Advance Pricing and Mutual Agreement Program (APMA Program). The report for the year 2024 describes the experience, structure, and activities of the APMA Program during calendar year 2024. The information on the structure, composition, and operation of the APMA Program is provided in Part I of this report. Part II presents statistical data, including that 142 APAs were executed in 2024 and 560 remained pending as of year-end. Part III includes general descriptions of various elements of the APAs executed in 2024, such as the types of transactions covered, methods used, and average completion time.

*Announcement 2025-13*

# House, Senate Overturn IRS Digital Asset Reporting Rule

A rule entitled "Gross Proceeds Reporting by Brokers that Regularly Provide Services Effectuating Digital Asset Sales" is on track to be overturned after passage of resolutions in both the House of Representatives and the Senate disapproving of the rule.

The action taken by Congress under the Congressional Review Act would roll back a December 2024 regulation which, according to a report by the Joint Committee on Taxation, addresses "a revised definition of digital asset middleman to encompass certain persons who participate in effectuating decentralized financial transactions (non-custodial industry participants). In the definition of digital asset middleman, the December 2024 regulations replace 'facilitative services' with 'effectuating services' and provide that an 'effectuating service' includes both the previously-defined

REFERENCE KEY

**USTC** references are to ***U.S. Tax Cases***
**Dec** references are to ***Tax Court Reports***

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‘facilitative services’ (as included in the July 2024 Regulations) as well as trading front-end services where the nature of the service arrangement is such that the person providing that service ordinarily would know or be in a position to know that the nature of the transaction potentially gives rise to gross proceeds from the sale of digital assets. Trading front-end services generally facilitate trading for customers who may otherwise need to write software code in order to communicate, and thus transact, with other decentralized finance participants.”

During a markup of the resolution in the House Ways and Means Committee on February 26, 2025, it was argued that the rule would result in additional paperwork and burden to the taxpayers while providing the Internal Revenue Service with data that has little value to tax administration, although concerns were raised that rolling the regulation back would allow taxpayers to engage in digital asset transactions without reporting the gains from them.

The regulation generally applies to digital asset sales after January 1, 2027.

The House passed H.J. Res. 25 on March 11, 2025, by a 292-132 with 76 Democrats joining all voting Republicans in passing the resolution. The Senate passed the measure on March 26, 2025, with a bipartisan majority of 70 senators voting in favor of the resolution. No Republicans in the upper chamber of Congress joined the 26 Democrats and two independents who voted against the resolution.

The resolution still requires signature from President Trump.

### Earned Income Tax Credit Marks 50th Year

The IRS acknowledged the 50th anniversary of the Earned Income Tax Credit (EITC), which has helped lift millions of working families out of poverty since its inception. Signed into law by President Gerald Ford on March 29, 1975, as part of the Tax Reduction Act, the EITC began as a modest effort to support low-to-moderate income earners. Over five decades, it has evolved into one of the federal government’s largest anti-poverty programs. As of December 2024, approximately 23 million workers and families received nearly $64 billion in EITC benefits. The maximum credit in its first year was $400. For the tax year, 2024, the credit could be worth up to $7,830 depending on income, filing status, and number of qualifying children. The EITC helps eligible taxpayers afford daily essentials, save for the future, and achieve financial security. Individuals can use the EITC Assistant on IRS.gov to check eligibility and learn how to claim the credit.

*IR-2025-38*

## IRS Underreported Direct File Pilot Costs – TIGTA

The Internal Revenue Service did not report all costs for the Direct File program, according to a new report issued by the Treasury Inspector General for Tax Administration.

The March 20, 2025, report, Inflation Reduction Act: Results of the Direct File Pilot, noted that the IRS’s “total reported obligation of $24.6 million to develop and operate the Direct File Pilot did not include all costs incurred by the government. Specifically, the IRS’s reported totals did not include an estimated $8.8 million for costs incurred by the Office of Management and Budget for employees detailed to the IRS to help develop and pilot Direct File and costs incurred to create or leverage existing accounts through the IRS’s Credential Service Provider.”

TIGTA added that the IRS did not include “all the costs of IRS employees from other functions who collaborated to support Direct File.”

The Treasury watchdog reported that the IRS “did not track all the costs from its support functions and include them in the total for the Direct File Pilot because according to management, IRS support functions help deliver any IRS programs as needed.”

### Tax Return Error Rate Similar or Better Than Third Party Software

TIGTA also noted that the “review of accepted and rejected Direct File tax returns identified that the error conditions and identity theft rates for Direct File were similar to or lower than other software providers.”

The report notes that the agency “identified 514 Direct File tax returns with 12 different error conditions,” which happens when the taxpayers reports something on their return that is not expected or allowed.

Additionally, the overall rejection rate for Direct File tax returns submitted for e-file was similar to or lower than other software providers, “two reject reasons were significantly higher compared to other software providers,” including mismatches between prior year adjusted gross income and the inability to advance payments of the Premium Tax Credit.

In the identity theft area, “the IRS’s identity theft identified 1,773 Direct File returns (1.3 percent of all Direct File returns) with requested refunds totaling $3.3 million for review,” add that 16 tax returns were confirmed to be involved with identity theft and the agency prevented a total of $151,603 in refunds from being issued.

“The identity theft selection rate for Direct File returns was similar as returns filed by non-paid preparers using other tax software,” the report states. “However, IRS management acknowledged that this could change as Direct File’s tax scope increases and additional refundable credits are offered. Thus, IRS management stated they will continue to monitor and mitigate the risk of identity thieves using Direct File.”

TIGTA also reported that Direct File users may have unknowingly given up the ability to claim credits they may be entitled to.

One example used was Education Credits. "Our analysis of the 140,803 accepted returns filed during the Direct File Pilot identified 669 taxpayers for whom the IRS received a Form 1098 T, Tuition, Statement, indicating they were potentially eligible to claim an education credit. … Based on our results, we project that that 271 of the 669 returns were eligible to receive education credits totaling $220,184."

# Forfeiture Order Did Not Enter Money Judgment Against Taxpayer

*L.W. Hubbard, CA-6, 2025-1 USTC ¶50,123*

An appeals court ruled that a forfeiture order granted the IRS ownership of the taxpayer's individual retirement account (IRA). Thus, when the IRS withdrew the funds from the IRA, it was not discharging a debt. It was simply transferring its own money.

## Tax Court Decision

After a jury convicted the taxpayer of operating an illegal "pill mill," the district court ordered him to serve decades in prison. The government also confiscated his homes, vehicles, watercraft, and financial accounts using the criminal-forfeiture laws. As part of the forfeiture, the IRS seized over $400,000 from the taxpayer's individual retirement account (IRA). Years later, the IRS suggested that the transfer of this money to the IRS qualified as income for the taxpayer that he should have paid taxes on from prison. The tax court agreed and ordered the taxpayer to pay over $180,000 in taxes and penalties.

## Sixth Circuit Reverses

The Sixth Circuit found that the forfeiture order granted the IRS ownership of the IRA; it did not enter a money judgment against the taxpayer. So when the IRS withdrew the funds from the IRA, it was not taking the taxpayer's money to discharge a debt. It was simply transferring its own money. The tax code provides that the "payee or distributee" of withdrawn IRA funds should pay these taxes under Code Sec. 408(d)(1). Because the IRS owned and controlled the IRA and received the funds, it qualified as the payee or distributee.

Reversing the Tax Court, Dec. 62,418(M), T.C. Memo. 2024-16.

# District Court Erred in Granting Summary Judgment in Tax Collection Case

*A.T. Stover, CA-4, 2025-1 USTC ¶50,121*

The district court erred in granting summary judgment to the government in a tax collection case against a married couple. The government argued that the suit was timely under Code Sec. 6502 because the collection period was tolled long enough, starting from the time when the taxpayers requested an installment agreement.

An IRS automated record supported the government's position, indicating that the taxpayers requested an installment agreement on an earlier date. However, the taxpayer's sworn testimony, to the contrary, stated that the couple first contacted the IRS about a payment plan through their CPA on a later date. The Court of Appeals noted that summary judgment was not proper when two pieces of admissible evidence in the record conflicted as to the date that dictated the timeliness of a suit. That fact dispute directly impacted the only dispositive issue in this case- the timelines of the government's collection action. Accordingly, the Court of Appeals vacated the district court's award of summary judgment and remanded for further proceedings.

Vacating and remanding a DC N.C. opinion, 2023-1 USTC ¶50,124.

# QTIP Value Includible in Gross Estate Not Reduced by Settlement

*P.B. Kalikow, Est., CA-2, 2025-1 USTC ¶60,741*

The value of assets of a qualified terminable interest property (QTIP) trust includible in a decedent's gross estate was not reduced by the amount of a settlement intended to compensate the decedent for undistributed income.

The trust property consisted of an interest in a family limited partnership (FLP), which held title to ten rental properties, and cash and marketable securities. To resolve a claim by the decedent's estate that the trustees failed to pay the decedent the full amount of income generated by the FLP, the trust and the decedent's children's trusts agreed to be jointly and severally liable for a settlement payment to her estate. The Tax Court found an estate tax deficiency, rejecting the estate's claim that the trust assets should be reduced by the settlement amount and alternatively, that the settlement claim was deductible from the gross estate as an administration expense (*P. Kalikow Est.*, Dec. 62,167(M), TC Memo. 2023-21).

### Trust Not Property of the Estate

The estate presented no support for the argument that the liability affected the fair market value of the trust assets on the decedent's date of death. The trust, according to the court, was a legal entity that was not itself an asset of the estate. Thus, a liability that belonged to the trust but had no impact on the value of the underlying assets did not change the value of the gross estate. Furthermore, the settlement did not burden the trust assets. A hypothetical purchaser of the FLP interest, the largest asset of the trust, would not assume the liability and, therefore, would not regard the liability as affecting the price. When the parties stipulated the value of the FLP interest, the estate was aware of the undistributed income claim. Consequently, the value of the assets included in the gross estate was not diminished by the amount of the undistributed income claim.

### Claim Not an Estate Expense

The claim was owed to the estate by the trust to correct the trustees' failure to distribute income from the rental properties during the decedent's lifetime. As such, the claim was property included in the gross estate, not an expense of the estate. The court explained that even though the liability was owed by an entity that held assets included within the taxable estate, the claim itself was not an estate expense. The court did not address the estate's theoretical argument that the estate would be taxed twice on the underlying assets held in the trust and the amount of the settlement because the settlement was part of the decedent's residuary estate, which was distributed to a charity. As a result, the claim was not a deductible administration expense of the estate.

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## Captive Arrangement Failed To Qualify As Insurance Enterprise

*G.R. Jones, TC Memo. 2025-25, Dec. 62,633(M)*

In consolidated cases involving several individuals and an S corporation, a micro-captive insurance arrangement between the S corporation and its related captive insurer could not establish its status as an insurance enterprise for federal tax purposes. The Court held that the arrangement lacked risk distribution and failed to operate as an insurance enterprise in the commonly accepted sense. As a result, deductions under Code Sec. 162 and exclusions under Code Sec. 831(b) were disallowed for the tax years at issue. A loan issued by the captive to one of its shareholders was re-characterized as a constructive dividend.

During the tax years at issue, the S corporation made payments to a captive insurer owned by its executive officers. The captive elected the alternative tax regime under Code Sec. 831(b) and excluded the premium income from taxation. The S corporation simultaneously retained commercial insurance coverage.

### Captive Was Not an Insurance Enterprise

The captive did not distribute risk and was not operated as an insurance enterprise in the commonly accepted sense. Risk pooling through a reinsurance arrangement lacked substance due to a circular flow of funds and no actual transfer of risk. Premiums were not negotiated at arm’s length and were derived from an internally influenced actuarial report. The captive issued policies covering nonstandard risks, did not handle claims, and was dissolved after a single year of operation.

### Constructive Dividend

The captive issued an unsecured loan to one of its owners within its first year, despite internal policies prohibiting such advances. The loan had no repayment enforcement and was satisfied years later only after the owner sold interest in the business. The Court re-characterized the advance as a constructive dividend.

### Determinations Deferred

The IRS determined accuracy-related penalties under Code Sec. 6662(a) based on the disallowance of tax benefits from a transaction lacking economic substance. However, the Tax Court deferred ruling on the applicability of Code Sec. 7701(o) and a nondisclosure penalty under Code Sec. 6662(i)(2).

# Taxpayers Urged To Follow Filing Guidelines To Speed Refunds and Prevent Errors

*IR-2025-36*

The IRS is reminding taxpayers to carefully follow filing guidelines as the April 15 deadline approaches, emphasizing the importance of accurate information and proper documentation to speed up refunds and reduce mistakes. Taxpayers should gather all necessary documents, such as W-2s, 1099s, and proof supporting deductions and credits, and ensure that personal information—including names, birthdates, and Social Security numbers—is entered precisely as shown on Social Security cards.

The IRS strongly recommends electronic filing through IRS Free File, Free File Fillable Forms, or Direct File, noting that electronic filing helps minimize errors, identifies potential credits or deductions, and enables faster refunds through direct deposit. Taxpayers must accurately report all taxable income and explicitly answer the digital assets question included on IRS forms, regardless of actual digital asset activity.

Those unable to file by the April 15 deadline can request a six-month filing extension until October 15 using IRS Free File, Form 4868, or by making an online estimated tax payment and marking it as an extension payment. However, the IRS cautions taxpayers that this extension only applies to filing—not to tax payments, which remain due by April 15.

# IRS Highlights Free File as Quick, Easy Filing Option

*IR-2025-37*

As the April 15 filing deadline nears, the IRS is reminding taxpayers that IRS Free File is a convenient, cost-free method to prepare and electronically file their federal tax returns. Taxpayers with a total adjusted gross income (AGI) of $84,000 or less for 2024 qualify for IRS Free File. Through a partnership with the Free File Alliance, this service provides guided tax preparation software tailored to individual taxpayer circumstances. Free File also assists taxpayers in accurately calculating and claiming significant credits, including the Earned Income Tax Credit, Child Tax Credit and the Child and Dependent Care Credit, which may reduce taxes owed or increase refunds.

Additionally, IRS Free File offers a straightforward way to obtain a six-month filing extension, moving the filing deadline to October 15. However, the IRS emphasized that obtaining an extension to file does not extend the due date for tax payments. Any taxes owed remain payable by April 15, and taxpayers who fail to meet this payment deadline risk incurring penalties and interest.

The IRS also notes that several other cost-free filing options available to taxpayers. These include Free File Fillable Forms, ideal for taxpayers comfortable with preparing their returns independently, and IRS Direct File, accessible to residents in 25 participating states. Additional personalized assistance can be obtained from the Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs. Members of the military, eligible veterans, and their families may use MilTax, provided by the Department of Defense, which offers tailored tax support reflecting the unique demands of military life.

# TAX BRIEFS

### *Business Expenses*

An individual was not entitled to several deductions claimed on Schedule C for one of the tax years at issue because the taxpayer failed to substantiate the expenses or mischaracterized internal business decisions as deductible adjustments. The Tax Court disallowed deductions related to the value of self-performed labor, personal equipment purchases, and internal discounts, and partially allowed deductions for contract labor, subject to documentation.

*Nwafor, TC, Dec. 62,635(M)*

### *Depreciation Deduction*

An individual was not entitled to a depreciation deduction for one of the tax years at issue because the taxpayer failed to substantiate either the adjusted basis or the fair market value of property converted to rental use. The Tax Court held that the deduction was not allowable under Code Sec. 167 and Reg. §1.167(g)-1, which require the depreciable basis to be the lesser of fair market value or adjusted basis at the time of conversion.

*Smith, TC, Dec. 62,632(M)*

### *IRS*

The Office of Chief Counsel announced updated procedures for the signature block used in documents filed with the United

States Tax Court, correspondence to the Department of Justice, and other official communications. Effective March 19, 2025, the signature block for Tax Court filings must reflect the following designation: Andrew A. De Mello, Acting Chief Counsel, Internal Revenue Service. For unsigned or unfiled Tax Court documents containing the previous Chief Counsel's signature block, a sticker or label bearing the updated signature block may be applied without re-execution. Other documents must be revised and signed afresh to include the updated designation. If Mr. De Mello is recused due to prior involvement, the signature block will name Drita Tonuzi, Deputy Chief Counsel (Operations), as the signatory.

*Chief Counsel Notice CC-2025-005*

### *Unreported Income*

In consolidated cases involving married taxpayers (T1) and (T2), the Tax Court ruled that T1 had unreported gross receipts from his multilevel marketing business. T1 admitted to the same in tax returns and at trail. T1's reconstruction of his expenditures was insufficient to substantiate expenditures under Code Sec. 274. The taxpayers were liable for additions to tax under Code Secs. 6651(a)(1) and (2). However, T2 was not liable for an addition to tax under Code Sec. 6651(a)(2) for TY 2008.

*Jaha, TC, Dec. 62,634(M)*

### *West Virginia Disaster*

A March 14, 2025 notice granting relief to victims of severe storms, straight-line winds, flooding, landslides, and mudslides that began on February 15, 2025, in parts of West Virginia was updated by the IRS on March 20, 2025, to include Greenbrier, Lincoln, Monroe, and Summers counties.

*West Virginia Disaster Relief Notice (WV-2025-02)*

### *Supreme Court Docket*

A petition for review was denied in Rockwater, Inc., dba Peerless Manufacturing Company, (CA-11)— The Eleventh Circuit Court of Appeals held that peanut-drying trailers do not meet the statutory definition of "off-highway transportation vehicles" and are not exempt from the Code Sec. 4051 excise tax. The trailers' design features serve the purpose of drying peanuts primarily in stationary locations like buying points but they do not establish a primary purpose of transporting peanuts. Their special peanut-drying design has nothing to do with off-highway transportation.