

Common Questions About the Beneficial Ownership Information Reporting Requirement and Nonprofits

By Ted R. Batson, Jr., Partner, Tax Counsel, and Professional Practice Leader – Tax

As of January 1, 2024, many companies in the United States are required to report information about their beneficial owners to the U.S. Department of Treasury's Financial Crimes Enforcement Network (FinCEN). While **nonprofit entities are exempt from this filing requirement**, many organizations have questions about whether the exemption applies in certain situations.

To help, we've compiled answers to frequently asked questions about this requirement and how it relates to nonprofits.

Q: What is the beneficial ownership information reporting requirement?

A: In 2021, Congress enacted the Corporate Transparency Act (CTA) to reduce illegal activity such as money laundering, tax fraud, and terrorism financing by requiring the reporting of more ownership information from certain U.S. businesses. This makes it harder for bad actors to hide income and other types of gains through shell companies or other opaque ownership structures.

Under the CTA, as of January 1, 2024, entities that meet specific criteria must submit a Beneficial Ownership Information (BOI) report to FinCEN, a department of the U.S. Treasury. "Beneficial owners" are those individuals who exercise substantial control, either directly or indirectly, over a reporting company, or who own or control at least 25% of a reporting company's ownership interests.

Entities have one year from January 1, 2024, to file their BOI report. There is no ongoing filing requirement unless an amendment is needed due to a change in the reported information.

Q: Are nonprofits required to file a BOI report?

A: In short, no. All entities are required to file unless one of 23 exemptions applies, and **nonprofits are exempt from the BOI filing requirement**.

Section 1.2 of the FinCEN [Small Entity Compliance Guide](#) includes a list of the 23 BOI reporting requirement exemptions. As the guide notes, an entity qualifies for the tax-exempt entity exemption if it meets *any* of these four criteria:

1. The entity is an organization that is described in section 501(c) of the [Internal Revenue Code of 1986](#) (Code) (determined without regard to section 508(a) of the Code) and exempt from tax under section 501(a) of the Code.
2. The entity is an organization that is described in section 501(c) of the Code and was exempt from tax under section 501(a) of the Code, but lost its tax-exempt status less than 180 days ago.
3. The entity is a political organization, as defined in section 527(e)(1) of the Code, that is exempt from tax under section 527(a) of the Code.
4. The entity is a trust as described in paragraph (1) or (2) of section 4947(a) of the Code.

Entities that assist nonprofit entities and subsidiary entities controlled by nonprofit entities are also exempt from the BOI reporting requirement.

To qualify as an "assisting entity," an entity must meet all four of the following criteria:

1. Operate exclusively to provide financial assistance to *or* hold governance rights over a tax-exempt entity that meets one of the four exemption criteria above;
2. Be a U.S. person as defined in section 7701(a)(30) of the Code;
3. Be beneficially owned or controlled exclusively by one or more U.S. persons who are U.S. citizens or lawfully admitted for permanent residence (as defined in section 101(a) of the Immigration and Nationality Act ([8 U.S.C. 1101\(a\)](#))); and
4. Receive a majority of its funding or revenue from one or more U.S. persons who are U.S. citizens or lawfully admitted for permanent residence.

“Subsidiary entities” are those entities whose ownership interests are controlled or wholly owned, directly or indirectly, by one or more tax-exempt entities.

Q: Our organization is operating under the presumption of tax exemption and has not obtained a 501(c)(3) determination letter yet. Are we required to file a BOI report?

A: No. Under the first of the four exemptions noted above, an organization qualifies for the exemption if it is *described* in section 501(c) of the Code. This means that the entity’s organizing documents and its operations (or planned operations) must meet the definitional test found in section 501(c)(3).

In addition, with this exemption, the determination is made without regard to section 508(a). Section 508(a) is the statutory provision that generally requires an organization described in section 501(c)(3) to obtain a determination from the IRS that the organization, is, in fact, described in section 501(c)(3). Because the BOI reporting exemption specifies that it applies without regard to section 508(a), it is sufficient that the organization is described in section 501(c)(3). It is not necessary to have obtained a determination letter to be exempt from filing a BOI report.

Therefore, any entity organized and operated as an eligible nonprofit meets this element of the exemption requirements, regardless of whether it has filed for an IRS determination letter. This includes churches and other similar nonprofits that are not required to obtain a determination letter.

Q: We have applied for 501(c)(3) status, but it hasn’t been approved yet. Do we need to file a BOI report?

A: No. As explained in the previous answer, the FinCEN exemption specifically removes the requirement of obtaining a determination letter to qualify for exemption from filing the BOI report.

Similarly, nonprofits formed after January 1, 2024, are not required to file an initial BOI report or subsequent updates.

Q: Do we need to file Form 1023 to qualify for exemption from BOI reporting?

A: No. While organizations (other than churches, conventions or associations of churches, and their integrated auxiliaries) must file [Form 1023, Application for Recognition of Exemption Under Section 501\(c\)\(3\) of the Internal Revenue Code](#), to qualify for tax exemption and to issue tax-deductible receipts, FinCEN specifically removed the requirement to file Form 1023 to qualify for exemption from filing the BOI report.

Please [contact us](#) if you have additional questions about BOI reporting or other issues for tax-exempt entities. We are here to help.

About the Author

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A certified public accountant and licensed attorney, Ted advises exempt organizations of all sizes on a wide range of tax matters, including representation before state and federal tax authorities and assistance with firm audit or advisory engagements to formulate advice and counsel on important operating and tax issues. In addition to tax advisory services, Ted leads the firm’s tax preparation practice, including IRS Forms 990 and 990-T and related state forms. He also serves as an Advisor-at-Large for Church Law & Tax and as a member of the Missio Nexus Mission Finance and Administration Planning Committee.

Note: Although licensed to practice law in Indiana, Ted’s services through CapinCrouse do not involve the practice of law and consequently do not result in the creation of an attorney-client relationship.

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