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Technologists Randy Johnston and Brian Tankersley, CPA, discuss a new regulatory change coming in 2024, and what firms need to know and do for their clients.

Brian Tankersley • **Randy Johnston** • Dec. 08, 2023

Technologists Randy Johnston and Brian Tankersley, CPA, discuss a new regulatory change coming in 2024, and what firms need to know and do for their clients.

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0:00 / 14:24

Transcript (Note: There may be typos due to automated transcription errors.)

SPEAKERS

Randy Johnston, Brian F. Tankersley, CPA.CITP, CGMA.

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few others, the AICPA has done it in the town hall on November 2, you might take a listen there. But we did not want you to miss the implications for your firm and your clients because of these new regulations. So Brian, I know that you've done research in this area, I've tried to be, you know, literate about what we need to warn our listeners about, but just give some background and if you can, so

Brian F. Tankersley, CPA.CITP, CGMA 00:52

this beneficial ownership reporting is, is again, a FinCEN thing. We're really catching up to the rest of the world that has been doing stuff like this for some time it is, it's to bring additional enforcement under the 22,022 corporate Transparency Act, to, again to bring our anti money laundering reporting up to snuff with what's happening in the rest of the world. Again, the US is the only developed country in the Western world that doesn't have a value added tax. And so money laundering takes a particularly important role in those countries with that, and so we're just effectively catching up with them. Finn sin fencin, as you recall, is the part of treasury that does the cash reports when you take more than $10,000 in a single transaction or a series of transactions. And so, again, financial crime Enforcement Network, and they have, they are in the process of setting up a system to to receive these beneficial ownership reporting things. Now, I will tell you that when I set up my C Corp back in 19, I think it was, I actually had to, I actually had to, on a note, I think maybe it was on a state tax form, I had to tell them who the beneficial owner of that organization was. FinCEN is going to start doing this and they have a number of definitions of who is and who isn't a beneficial owner, you need to you're gonna need to go look at the FinCEN website and the guidance in there. But new entities formed after 112 1024 Looks like we initially had 30 days to report these ownership changes. FinCEN has now proposed changing this to 90 days. And the entities that were formed before 112 1024 will have until 112 1025 to report their initial their initial filing with FinCEN. Now, I've got to I've got some definitions. I'll get into here with this. But one of the big challenges here is that it's not apparently clear at this point, whether or not CPAs are going to even be able to offer this service or whether they're malpractice

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that we're dealing with here, I think is a very important thing to be aware of. However, you also need to know that the fines are ridiculous associated with this as you would expect anything FinCEN where the fines are always ridiculous. The fines here are $500 a day for being late on this day and that can be per beneficial owner. So beneficial owner is actually defined as person an individual who exercises substantial control over reporting company owns or controls 25% of reporting company and those are two separate attributes Okay, so if you are the CEO of an organization even though you own 5%, but you run the organization like it's your own, then it is you exercise substantial control. Again, if you also second one is if you own or control 25% or more of a reporting company. There exemptions, and those exemptions are in title 31, US Code 5336, a three and in the guidance from from folks, but again, minor children, custodians, trustees and agents, individuals acting as an employee of another agent may only receive salaries and wages, individuals who interest is whose interest is through arrive inheritance and a creditor of a company. It also exempts public companies, banks, credit unions and savings loans, insurance companies, charities and churches and certain trusts. And the fencin fees are expected to be roughly $85. For those initial reports. Yeah,

Randy Johnston 05:40

so Brian, you know, as you were covering this, the main reason when we talked about what topics to discuss here in the technology lab, we think that all of you have clients that are likely to fall under this. And the $500 per responsible party, if you will, beneficial owner of per day is substantial. And the probability of your clients knowing about this is near zero. Now FinCEN says they're going to be advertising and try to make it public. And they're gonna have a website where it'll be easy to file and what that's all to be seen yet. But I'm worried about your you and your clients, and possibly even your firm, which may fall under these, you know, regulations as we would see it, that you get filed for your own firm, but then you make sure that all of your clients are filed. And as Brian properly pointed out, this idea of are you

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there's going to be a delay in implementation time. So this is January one is when it starts. But it really only affects heavily new startups after January one, depending on whether it comes out as 30 days or 90 days. For most, we've got about a year. But you don't want to put it off till November December of 2024. And

Brian F. Tankersley, CPA.CITP, CGMA 07:57

I would just say that I think the nightmare scenario for most of us is that if you're the accountant for a small and midsize business, and you handle their personal property tax returns and their sales tax returns and their payroll tax returns, and their income tax returns for federal and state and their excise tax returns, I think I think you have a very even if it is determined to be the unauthorized practice of law by state. I think you will still see some people in said states that will be sued for malpractice under in those states saying that the that they believe they had reasonably believed that you would take care of that in there. So So I think even if you decide you're not going to provide that service, I think you still need to send a letter to your clients letting them know about this, this filing requirement. So you have something in your file says the position your position on it. Now there is I've got a few resources for you here. One of them is the boi reporting website had fencin and it is just FYI, n c e n.gov/boi. all lowercase. There are a number of other things linked off it some primary source reference materials and some FAQs there into it and Drake. I haven't seen any services they offer in this area. However, Thomson Reuters has an enterprise product called clear that appears to be their entrance in this and if you want to learn more about that on their white paper, you can go to CPA te.ch/tr vor. That's my URL shortener that I have set up CPA te.ch CPA tech, CP CPA t.ch/tr Boi. And if you want to learn more about the Thomson tool, that CPA te.ch/tr voi app cch has a tool in preview to assist with this. Nobody can really file anything yet because the FinCEN website It wasn't up. So. So this stuff is still we're still in a kind of in a no man's land here. But if you want to learn more about the CCH, that tool that CPA te.ch/cch Boi, and I will pass these on to Isaac so that he can get these in the, in the article that accompanies this on the website. So it shows up in your feed, too. But I think I think

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will brand it probably is so that I'm never going to be able to see boi without understanding that it's a Yellowjacket problem. And that's a good thing, I think. And that's really what we were trying to get done with today's Tech Lab for you. We know it's an issue, we know there's a lot of moving parts, we believe that you're gonna have to take action, whether you're filing or warning, whichever position it is. And frankly, your firm is at risk on this because we suspect all of your firms have a structure that has reporting requirements off into the not too distant future. So Brian, any other closing thoughts here on boi and the new financing? Requirements?

Brian F. Tankersley, CPA.CITP, CGMA 11:44

Yeah, I think you hit the nail on the head there ready when you re emphasized it. But you know, I've been married for 30 years now. And I'm used to things being my fault. But I would just say that, that generally. And I say that in good fun, my wife would laugh if I said it too. But I will say that, I think you have to be very careful with this boi thing, that you make sure that everybody knows that you're either going to do it or you're not going to do it. So that isn't your fault that you didn't talk about, okay, this is a situation where I think you need a letter in the file one way or the other to all your clients, alerting him to this so that this yellow jacket didn't come up and you know what, 20 of them don't come up and seeing you at $500 a day for 45 days. times five clients, that's a bad day, no matter who it is. So hopefully, again, just just be aware, this is out there. And I hope you find it helpful in here. Again, the the the lady at CP at at AICPA whose name escapes me that does small firms, VP of small firm services, did a great job in that AICPA podcast and she had some great resources, which I will not pirate, but you can get from that. That's actually that AICPA townhall series is actually on YouTube, so you can actually see the links and even watch the videos there. But, you know, if you have questions or anything, if we can point you in the right direction, don't hesitate to reach out to us either. We're not experts, but we'll tell you what we know. Yeah,

Randy Johnston 13:17

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some super important to so. All right. Well, it's been a pleasure having you another technology lab. We look forward to seeing you again in the near future. Good day.

14:16

Thank you for sharing your time with us. We'll be back next week with a new edition of the technology lab, brought to you by CPA practice advisor

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