

December 5, 2024

Court halts BOI reporting; AICPA urges preparedness

A federal district court, finding that the Corporate Transparency Act (CTA) is likely unconstitutional, issued an order Tuesday prohibiting the enforcement of the CTA and the beneficial ownership information (BOI) reporting rule in the CTA's accompanying regulations.

The injunction, which according to the court should apply nationally, was issued in Texas Top Cop Shop, Inc. vs. Garland

<<https://click.e2.aicpa.org/?qs=bfaad8d1f6eb8223a02f27dc5e9dbe0b0832ee6130688230bc434d304700e24e54b592e0fb4281636771f01b2cdc26da552789477edcd447b19fd4982fe3425b>> , No. 4:24-CV-478 (E.D. Texas 12/3/24).

Under the injunction, the CTA and the BOI reporting rule cannot be enforced, and reporting companies need not comply with the CTA's Jan. 1, 2025, BOI reporting deadline pending a further order of the court.

The Financial Crimes Enforcement Network (FinCEN), which enforces the CTA, is reviewing the order, a spokesperson said Wednesday, pointing out that other courts have denied similar requests. The Justice Department did not immediately respond to a question about plans to appeal.

An AICPA statement acknowledged the potential effects of the injunction and urges taxpayers who have not yet complied with the BOI reporting to be prepared to file the BOI report if the injunction is lifted. While it is unlikely that the injunction will be lifted prior to the final outcome of the proceedings, we advise being prepared in the event that there is a reversal.

A statement from Melanie Lauridsen, the AICPA's vice president–Tax Policy & Advocacy, said, in part:

"The AICPA understands the confusion and anxiety that business owners have struggled with regarding the BOI reporting requirement. We believe that the injunction ... is applicable nationwide to all small businesses. While we are still awaiting formal guidance from FinCEN, if this injunction is applicable as we believe, many small businesses would receive the much-needed BOI reporting relief. The AICPA will continue an open dialogue with FinCEN in the hopes that our questions and concerns will be addressed, and we will continue to advocate on behalf of small businesses for clarity and relief."

Todd McCracken, the president and CEO of the National Small Business Association (NSBA), the main plaintiff in an Alabama case where the judge declared the CTA unconstitutional, applauded the decision in a post on the NSBA site. It is "a huge relief to the millions of small business owners across the country who were facing a wildly complex regulatory regime," along with fines and prison time, he said.