# 2024 Tax Update

Mallory Taylor
Gregory Justus

# Beneficial Ownership Information Reporting

# Beneficial Ownership Information (BOI) Reporting Requirements

Enacted by: Corporate Transparency Act (CTA), part of the Anti-Money Laundering Act of 2020.
Effective Date: January 1, 2024.
Purpose: Increase transparency to prevent illicit activity, money laundering, and tax evasion.

## Who Must Report

Covered Entities: Most domestic corporations, S corporations, LLCs, and similar entities organized by filing documents with a state's Secretary of State or any similar office. Foreign entities if registered to do business in the US by filing with a state's Secretary of State or any similar office. Also trusts, if registered with a state.

## Information Required

Entity Information: Name, address, state of formation.
Beneficial Owner Information: Full legal name, date of birth, address, and unique identifier (e.g., driver's license, passport).

Website for Filing and Resources
http://fincen.gov/boi

# Beneficial Ownership Information (BOI) Reporting Requirements
## **Exemptions**

- Securities reporting issuer
- Governmental authority
- Bank
- Credit union
- Depository institution holding company
- Money services business
- Broker or dealer in securities
- Securities exchange or clearing agency
- Other Exchange Act registered entity
- Investment company or investment adviser
- Venture capital fund adviser
- Insurance company
- State-licensed insurance producer
- Commodity Exchange Act registered entity
- Accounting firm
- Public utility
- Financial market utility
- Pooled investment vehicle
- Tax-exempt entity
- Entity assisting a tax-exempt entity
- Large operating company
- Subsidiary of certain exempt entities
- Inactive entity

# Beneficial Ownership Information (BOI) Reporting Requirements

## Beneficial Owner

Defined as individuals who:

- Exercise substantial control over the entity, or
- Own or control at least 25% of the ownership interests.

## Key Compliance Deadlines

New Entities (Formed After 1/1/2024):
- During 2024 - Report within 90 days of formation.
- After 2024 - Report within 30 days of formation.

Existing Entities (Formed Before 1/1/2024): Report by January 1, 2025.

Updates: Any changes must be reported within 30 days.

## Penalties for Non-Compliance

Civil: Fines up to $500 per day.

Criminal: Penalties up to $10,000 and/or up to 2 years in prison for willful violations.

# The SECURE 2.0 Act of 2022

# The SECURE 2.0 Act

**Plan Eligibility**

**Automatic enrollment for new plans**

Section 101 requires new 401(k) plans to automatically enroll participants upon attaining eligibility. The initial automatic enrollment amount is at least 3 percent but not more than 10 percent. Each year thereafter that amount is increased by 1 percent until it reaches at least 10 percent, but not more than 15 percent. Plans established before December 29, 2022, are grandfathered. There is an exception for small businesses with 10 or fewer employees, new businesses (i.e., those that have been in business for less than 3 years), church plans, and governmental plans.

Section 101 is effective for plan years beginning after December 31, 2024

**Faster eligibility for long-term, part-time workers**

Under current law, employer must allow employees with at least 1,000 hours of service in a 12-month period or 500 hours of service in a three-consecutive-year period to join their plan – regardless of whether the employee has met the plan's normal eligibility requirements. Section 125 reduces the three-year rule to two years.

Section 125 is effective for plan years beginning after December 31, 2024.

# The SECURE 2.0 Act

## Tax Credits for Small Businesses

### Startup tax credits

Section 102 increases the tax credit for starting a new plan from 50 percent to 100 percent for employers with up to 50 employees. Small businesses can earn an additional credit for making employer contributions, up to a per-employee cap of $1,000. This full additional credit is limited to employers with 50 or fewer employees and phased out for employers with between 51 and 100 employees. The applicable percentage is 100 percent in the first and second years, 75 percent in the third year, 50 percent in the fourth year, 25 percent in the fifth year – and no credit for tax years thereafter.

Section 102 is effective for taxable years beginning after December 31, 2022.

### Military spouse tax credit

Section 112 creates a tax credit for eligible small businesses that employ military spouses and allow them to participate in their plan subject to special eligibility and vesting requirements. The tax credit equals the sum of (1) $200 per military spouse, and (2) 100 percent of all employer contributions (up to $300) made on behalf of the military spouse, for a maximum tax credit of $500. This credit applies for 3 years with respect to each military spouse – and does not apply to highly compensated employees.

Section 112 is effective for taxable years beginning after December 29, 2022.

# The SECURE 2.0 Act

## Employee Contributions

**Mandatory Roth catch-up for high earners**

Section 603 provides all catch-up contributions to qualified retirement plans must be made on a Roth basis, except for participants whose prior year wages didn't exceed $145,000 (indexed for inflation).

Section 603 is delayed and now effective for taxable years beginning after December 31, 2025.

**Higher catch-up contribution Limit**

Section 109 increases the limit on catch-up contributions to the greater of $10,000 or 50 percent more than the regular catch-up limit ($7,500 for 2023) for individuals who have attained ages 60, 61, 62 and 63. The increased amounts are indexed for inflation after 2025.

Section 109 is effective for taxable years beginning after December 31, 2024.

# The SECURE 2.0 Act

## Employee Contributions (cont’d)

### New Emergency Savings Accounts

Section 127 permits employers to offer short-term emergency savings accounts (“ESAs”) to non-Highly Compensated Employees. ESAs must be funded with Roth contributions. Contributions are treated as elective deferrals for matching purposes and capped at $2,500 - unless the employer specifies a lower amount. Participants must be allowed to take at least one withdrawal per month, and the first four withdrawals per year cannot be subject to fees.

Section 127 is effective for plan years beginning after December 31, 2023.

### New deferral deadline for sole proprietors

Under the SECURE Act, an employer may establish a new 401(k) plan after the end of the taxable year, but before the employer’s tax filing date and treat the plan as having been established on the last day of the taxable year. Such plans may be funded by employer contributions up to the employer’s tax filing date. Section 317 allows these plans, when they are sponsored by sole proprietors or single-member LLCs, to receive employee contributions up to the date of the employee’s tax return filing date for the initial year if the owner is the only employee.

Section 317 is effective for plan years beginning after December 29, 2022.

# The SECURE 2.0 Act

## Employer Contributions

### Roth matching and nonelective contributions

Under current law, employers must contribute matching and nonelective contributions on a pre-tax basis. Section 604 allows participants to designate matching or nonelective contributions as Roth contributions when their plan allows.

Section 604 is effective for contributions made after December 29, 2022.

### Saver's match

Section 103 replaces the saver's credit with a direct government matching contribution to the taxpayer's IRA or eligible retirement plan. The match is 50 percent of IRA or retirement plan contributions up to $2,000 per individual. The match phases out between $41,000 and $71,000 in the case of taxpayers filing a joint return ($20,500 to $35,500 for single taxpayers and married filing separate; $30,750 to $53,250 for head of household filers).

Section 103 is effective for taxable years beginning after December 31, 2026.

# The SECURE 2.0 Act

## Employer Contributions (cont’d)

### Matching of student loan payments

Section 110 permits an employer to make matching contributions under a 401(k) plan, 403(b) plan, or SIMPLE IRA with respect to “qualified student loan payments.” A qualified student loan payment is broadly defined as any indebtedness incurred by the employee solely to pay qualified higher education expenses of the employee. For purposes of the nondiscrimination test applicable to elective contributions, Section 110 permits a plan to test separately the employees who receive matching contributions on student loan repayments.

Section 110 is effective for contributions made for plan years beginning after December 31, 2023.

# The SECURE 2.0 Act

## Plan Testing

**Top heavy rules for plans with excludable employees**

Section 310 allows a top-heavy 401(k) plan that covers otherwise excludable employees (employees who have not attained age 21 or worked a year of service) to perform a separate top-heavy test for excludable and non-excludable employees.

Section 310 is effective for plan years beginning after December 31, 2023.

**Reform of family attribution rules**

Related businesses must be aggregated when testing a 401(k) plan for nondiscrimination if enough common ownership exists. Individuals are deemed to own the stock of certain family members due to IRS-mandated family attribution rules. Section 315 removes 1) attribution for spouses with separate and unrelated businesses who reside in community property states, and 2) attribution between parents with separate and unrelated business who have minor children.

Section 315 is effective for plan years beginning after December 31, 2023.

# The SECURE 2.0 Act

## Participant Distributions

### Required Minimum Distributions

SECURE 2.0 makes numerous changes to the Required Minimum Distribution (RMD) rules. The changes include:

- Section 107 increases the RMD starting age from 72 to 73 (effective January 1, 2023) and then again to 75 (effective January 1, 2033).
- Section 302 reduces the penalty for failing to take a RMD from 50 to 25 percent. If the failure is corrected timely, the 25 percent penalty is reduced further to 10 percent. This change is effective for taxable years beginning after December 29, 2022.
- Section 325 eliminates the pre-death RMD requirement for Roth accounts. Effective for taxable years beginning after December 31, 2023.
- Section 327 allows a surviving spouse to elect to be treated as the deceased employee for RMD purposes.

Effective for calendar years beginning after December 31, 2023.

# The SECURE 2.0 Act

## Participant Distributions (cont'd)

**Small balance cash-outs**

Under current law, employers may transfer the 401(k) account of former employees to an IRA if their balance is no more than $5,000. Section 304 increases the limit from $5,000 to $7,000.

Section 304 is effective for distributions made after December 31, 2023.

**Hardship distribution certification**

Section 312 provides that, under certain circumstances, employees are permitted to self-certify that they have had an event that constitutes a hardship for purposes of taking a hardship withdrawal.

Section 312 is effective for plan years beginning after December 29, 2022.

# The SECURE 2.0 Act

## Participant Distributions (cont’d)

### Disaster distributions

Section 331 provides permanent rules relating to the use of retirement funds in the case of a federally declared disaster. The permanent rules allow up to $22,000 to be distributed from 401(k) plans for affected individuals.

Section 331 is effective for disasters occurring on or after January 26, 2021.

### Emergency distributions

Generally, an additional 10 percent tax applies to early distributions from a 401(k) plan unless an exception applies. Section 115 provides an exception for certain distributions used for emergency expenses, which are unforeseeable or immediate financial needs relating to personal or family emergency expenses.

Section 115 is effective for distributions made after December 31, 2023.

# The SECURE 2.0 Act

## Participant Distributions (cont’d)

### Penalty-free early distributions

SECURE 2.0 adds several other exceptions to the 10% additional tax that generally applies to early distributions:

- Section 314 allows penalty-free distributions to domestic abuse victims. Effective for distributions made after December 31, 2023.
- Section 326 allows penalty-free distributions to individuals with a terminal illness. Effective for distributions made after December 29, 2022.
- Section 334 permits penalty-free distributions up to $2,500 per year for the payment of premiums for certain specified long term care insurance contracts.

Change is effective beginning with distributions three years after December 29, 2022.

# The SECURE 2.0 Act

## Participant Distributions (cont'd)

**Qualified Birth or Adoption Distributions (QBADs)**

Section 311 amends the QBAD provision to restrict the recontribution period to 3 years.

Section 311 is effective to distributions made after December 29, 2022 and retroactively to the 3 year period beginning on the day after the date on which such distribution was received.

# Personal Tax Update

# Personal Tax Update

## 2024 Income Taxes

- Same seven tax brackets from 10% to 37%, slightly increased thresholds for each level
- Standard deduction: $14,600 single, $29,200 married filing jointly, $21,900 head of household
- Total state and local taxes still capped at $10,000 maximum deduction
- Mortgage interest still limited to $750,000 of debt, unless grandfathered at $1 million for pre-December 16, 2017, debt
- Public charity donations are still 60% of AGI for cash, 30% for property, and 50% overall for combined donations
- 2% miscellaneous deductions are still disallowed, except maybe for state purposes

# Personal Tax Update

**Estate and Gift Taxes**

- **Increased Estate and Gift Tax Exemptions**:
    - **Unified Lifetime Exemption**: The estate and gift tax unified exemption amount is **$13.61 million** per individual (up from $12.92 million in 2023) for 2024 and **$13.99 million** for 2025.
    - **Annual Gift Tax Exclusion**: The annual gift tax exclusion is **$17,000** per recipient (up from $16,000 in 2023) for 2024 and **$18,000** for 2025.
- **Finalized IRS Regulations** confirm that individuals who make gifts using the increased TCJA exemption amounts before they revert to pre-TCJA levels (scheduled for 2026) will not face a "clawback."
- ***Connelly* Supreme Court Case:** The result could reduce the value your heirs receive for a closely held business interest by up to 40% of any company-owned life insurance proceeds used in a redemption buy/sell arrangement.

# Personal Tax Update

**Digital Asset Reporting**

- Broader Definitions: Digital assets are explicitly defined to include cryptocurrencies, tokens, and other virtual assets. This aligns with the IRS's effort to ensure all relevant digital assets are subject to appropriate reporting.
- Third-Party Reporting: Platforms facilitating the exchange or sale of digital assets, such as cryptocurrency exchanges and brokers, are now required to report customer transactions similarly to traditional securities reporting (e.g., on Form 1099-B).
- Form 1099-DA: A new form may be introduced (drafted for 2025) specifically for digital asset reporting, ensuring clarity and uniformity in how transactions are declared.
- Lowered Thresholds for Reporting: The new rules establish that digital asset transactions exceeding $600 must be reported by brokers, aligning with existing rules for other payment platforms.
- Scope of Information: Brokers must report detailed transaction data, including the name and taxpayer identification number (TIN) of customers, sale proceeds, cost basis, and holding periods.
- Foreign Digital Asset Accounts: The IRS has indicated that digital assets held in foreign accounts may be subject to Foreign Bank Account Reporting (FBAR) requirements. U.S. persons holding certain thresholds of digital assets abroad must report these on FinCEN Form 114.
- FATCA Compliance: Digital assets may also fall under Foreign Account Tax Compliance Act (FATCA) reporting obligations, impacting financial institutions that manage such accounts for U.S. persons.
- Harrison v. Commissioner: tax treatment of ‘staking’ requires ordinary income treatment in the year credited.

# Personal Tax Update

**Clean Vehicle Credit (Section 30D)**

- **Credit Amount**: Up to $7,500 for new ‘qualified clean vehicles’ (electric and plug-in hybrids).
- **Eligibility Criteria**:
  - **Final Assembly in North America**: The vehicle must be assembled in North America to qualify.
  - **Battery Requirements**: The credit is split into two $3,750 parts, one for vehicles meeting critical mineral sourcing requirements and the other for battery component sourcing requirements. These requirements continue to evolve to ensure alignment with domestic and allied sourcing standards.
  - **No Phase-Out**: The number of vehicles manufactured or sold will not cause a decrease in the credit available.
- **Income Limitations**:
  - **Modified Adjusted Gross Income (MAGI) Caps**: To claim the full credit, taxpayers must have a MAGI below $300,000 for joint filers, $225,000 for heads of household, and $150,000 for single filers.
- **MSRP Limits**:
  - **Price Cap**: Vehicles must fall below specific MSRP thresholds—$80,000 for SUVs, vans, and pickup trucks; $55,000 for other vehicles.
- **Used Clean Vehicle Credit (Section 25E)**:
  - **Credit Amount**: Up to $4,000 or 30% of the vehicle’s sale price, whichever is less.
  - **Requirements**: The vehicle must be at least two years old and sold for $25,000 or less.
  - **Income Thresholds**: MAGI limits are lower for used vehicles: $150,000 for joint filers, $112,500 for heads of household, and $75,000 for single filers.
- **Direct Transfer**: Starting in 2024, taxpayers can elect to transfer the credit to dealers at the point of sale, reducing the upfront purchase price.

# Personal Tax Update

**Energy Efficient Home Improvement Credit (Section 25C)**

- **Credit Amount**:
  - Up to **$3,200 per year** for qualifying energy efficiency improvements.
  - **Breakdown**: $1,200 annual cap for most items and up to $2,000 for certain improvements like heat pumps, heat pump water heaters, and biomass stoves/boilers.
- **Eligible Improvements**:
  - **Exterior Components**: Windows and skylights (up to $600 annually), exterior doors (up to $250 per door, with a $500 maximum), and insulation.
  - **Major Systems**: Electric heat pumps, central air conditioners, water heaters, and certain biomass stoves.
- **Standards**:
  - Improvements must meet specific energy efficiency criteria outlined by the **Energy Star** program or other recognized standards.
- **Qualified Costs**:
  - Includes the cost of materials and certain labor expenses directly tied to the installation of the systems.
- **Lifetime Cap Replaced by Annual Limit**:
  - Unlike the pre-2023 lifetime cap, the credit now resets annually, allowing for strategic, phased improvements over multiple years.

# Personal Tax Update

## Family-Owned Partnerships

New guidance issued in 2024 intended to curtail basis-shifting transactions among related parties (as defined in Section 267).

- Transfers of a partnership interest to a related party
- Distributions of property to a related party
- Liquidation of related partnership or partner

(Fact Sheet 2024-21, Notice 2024-54, Proposed Regs Section 1.6011-18, and Revenue Ruling 2024-14)

The proposed regulations, if finalized, would make the described transactions reportable if they exceed $5 million and require filing of Form 8886 as a transaction of interest.

# Personal Tax Update

## Schedule 1099-K

New lower threshold of $5,000 or more in 2024 (was $20,000 and >200 transactions in 2023) will mean more 1099-Ks received by individual taxpayers from payment platforms such as Venmo, CashApp, PayPal, etc.  Expected to drop to $600 in 2025.

See News Release IR-2024-57 and Fact Sheet 2024-03.

# Business Tax Update

# Business Tax Update

## Bonus Depreciation and Section 179

**2024:**

60% bonus depreciation available

179 Deduction Limit: Up to $1,220,000.

Phase-Out Threshold: Begins when total qualifying property placed in service exceeds $3,050,000.

SUV Limitation: The maximum deduction for certain sport utility vehicles is $30,500.

**2025:**

40% bonus depreciation available

179 Deduction Limit: Up to $1,250,000.

Phase-Out Threshold: Begins when total qualifying property placed in service exceeds $3,130,000.

SUV Limitation: The maximum deduction for certain sport utility vehicles is $31,300.

# Business Tax Update

## Section 163(j) Interest Disallowance

- Deduction is limited to 30% of ATI, plus business interest income, plus floor plan interest expense.
  - For 2022 and forward ATI is determined after deducting depreciation and amortization
- Small business threshold, excluding tax shelters, is $30 million in 2024, and $31 million in 2025
  - Aggregation rules must be applied to affiliated businesses
- Elections are available to real estate businesses and farming businesses to not have 163(j) apply in exchange for using the straight-line ADS for depreciation

# Business Tax Update

## Section 174 Research and Development Expenditures

- For 2022 and forward such costs are required to be capitalized and amortized 5 years for domestic R&D and 15 years for foreign R&D.
- Costs subject to capitalization are more expansive than costs eligible for the Section 41 R&D tax credit, e.g. all software development costs.
- 2024 draft changes to Form 6765 for claiming the Section 41 R&D tax credit greatly expand detailed information needed; optional in 2024 and mandatory in 2025.

# Business Tax Update

**The Tax Relief for American Families and Workers Act of 2024 (TRAFWA)**

Passed by the House in January 2024 but failed in the Senate in July 2024, it was the culmination of several years of developments and lobbying efforts. It included significant proposals about many items, including the deductibility of research and experimentation (R&E) expenses under Section 174, deductibility of business interest expenses under Section 163(j), restoration of 100% bonus depreciation, extension of child tax credit benefits, terminating the employee retention credit (ERC) and expanding its enforcement, among others.

# Tax Changes Expected

# Tax Changes Expected

**2017 TCJA provisions set to expire:**

Tax brackets would revert back to pre-2018 (top bracket from 37% to 39.6%)

Standard deduction would decrease. Personal exemptions and itemized deduction phase outs would return. SALT cap would go away. 2% miscellaneous deductions would return. Child credit would decrease.

Higher AMT exemptions and income thresholds would roll back.

Estate tax exemption would roll back to pre-2018 indexed amounts (from $13.99 million to about $7 million).

The Section 199A small business deduction (20% of QBI) would expire.

The Section 461(l) loss limitation does not net expire.  Later legislation extended it through 2028.

# Tax Changes Expected

**Permanent provisions of TCJA:**

Corporate tax rate of 21%

Phasing out of bonus depreciation (zero after 2026)

Section 163(j) interest disallowance

Capitalization of R&D related expenses under Section 174

# Tax Changes Expected

**Anticipated changes:**

Republicans will advocate for a full extension of the TCJA provisions.

The cost will be somewhere between $4.5 and $5 trillion depending on scoring.

Budget reconciliation will be necessary because there won't be 60 votes in the Senate.

Republicans in blue states and budget hawks will draw out the process along with Democrats seeking an expanded child tax credit.

Look for debate on whether to lift the $10,000 SALT cap or not

Look for attempt to restore bonus depreciation and repeal of R&D capitalization

# Tax Changes Expected

**Possible changes:**

Trump may push for another corporate income tax cut from 21% to 20%, and maybe to 15% for domestic producers.

Trump may also promote expansive new tariffs to pay for the tax cuts, which he can do without Congressional approval.  Broadly, 20% tariffs across all imports, and 60% for Chinese imports. But many Republicans would push back on this and most economists say it would be harmful to the economy.

Republicans may look to reverse most of the Inflation Reduction Act: rolling back expanded alternative energy credits, reversing the 1% excise tax on stock buybacks, and slashing the IRS's budget increases.

Republicans may also look to modify the NIIT rules to exclude capital gains from the 3.8% tax.

# Tax Changes Expected

**Unlikely changes:**

Exclusion of tip income and overtime pay from income taxes

Exclusion of social security income from income taxes

A tax credit for family caregivers

Exemption of active military, veterans, and first responders from paying income taxes

A deduction for interest on automobile loans