

2024 NATIONAL INCOME TAX WORKBOOK

Chapter 1: ETHICS



LEARNING OBJECTIVES - WISP

P. 1

After completing this section, participants will be able to:

- Understand the requirements to have a written information security plan (WISP)
- Develop and adopt a WISP



LEARNING OBJECTIVES - BOI

P. 1

- After completing this section, participants will be able to:
 - Evaluate whether beneficial ownership interest (BOI) reporting may be the unauthorized practice of law
 - Exercise due diligence regarding BOI reporting






LEARNING OBJECTIVES - FBAR

After completing this section, participants will be able to:

1. P. 1

- Exercise due diligence when advising a client about Foreign Bank and Financial Accounts (FBAR) filing requirements
- 

LEARNING OBJECTIVES - DISCONTINUATION OF A TAX PRACTICE

After completing this section, participants will be able to:

- Know how to plan for practice continuation or closure in the event of incapacity or death

P. 1



WRITTEN INFORMATION SECURITY PLAN (WISP)

- P. 3



WRITTEN INFORMATION SECURITY PLAN (WISP)

P. 3

- Using electronic data files in their practice, tax practitioners have an obligation to protect this data
- Must comply with:
 - Circular 230
 - Gramm-Leach-Bliley Act (GLBA)



WRITTEN INFORMATION SECURITY PLAN (WISP)

Circular 230 requires:

P. 3

- A practitioner be competent to engage in practice
- Exercise due diligence
- Follow best practices

This extends to technological competence and diligence in safeguarding client information



CIRCULAR 230

- PP. 3-4



Duty of competence §10.35

Due diligence and best practices

- §10.22 ensure accuracy
- §10.33 best practices - technological safeguards
- §10.36 procedures to ensure compliance

WRITTEN INFORMATION SECURITY PLAN (WISP) P. 5

- Confidentiality - protect client info from disclosure
- Nondisclosure - §7216 use info only for tax prep - limited exceptions
- State laws and other professional organizations may have confidentiality rules of their own

Consent A

CONSENT TO USE TAX RETURN INFORMATION

Federal law requires this consent form be provided to you. Unless authorized by law, we cannot disclose, without your consent, your tax return information to third parties for purposes other than the preparation and filing of your tax return. If you consent to the disclosure of your tax return information, Federal law may not protect your tax return information from further use or distribution.

You are not required to complete this form. If we obtain your signature on this form by conditioning our services on your consent, your consent will not be valid. If you agree to the disclosure of your tax return information, your consent is valid for the amount of time that you specify. If you do not specify the duration of your consent, your consent is valid for one year.

Please complete: (To be completed by the taxpayer.)

- Purpose for forwarding information: _____

- Name and address to whom the information is being disclosed to:

- Duration of Consent: _____

I, _____, authorize (TAX OFFICE NAME).
to disclose to _____ my tax return information for year ____.

Taxpayer Signature: _____
Print Name: _____ Date: _____

Taxpayer Spouse Signature: _____
Print Name: _____ Date: _____

If you believe your tax return information has been disclosed or used improperly in a manner unauthorized by law without your permission, you may contact the Treasury Inspector General for Tax Administration (TIGTA) by telephone at 1-800-366-4484, or by email to: complaints@tigta.treas.gov

Consent B

CONSENT TO DISCLOSURE OF TAX RETURN INFORMATION

Federal law requires this consent form be provided to you. Unless authorized by law, we cannot disclose, without your consent, your tax return information for purposes other than the preparation and filing of your tax return.

You are not required to complete this form. If we obtain your signature on this form by conditioning our services on your consent, your consent will not be valid. Your consent is valid for the amount of time that you specify. If you do not specify the duration of your consent, your consent is valid for one year.

The purpose of this consent is to allow us to disclose your tax return information to _____ per your request.

We are not allowed by Federal law to use your tax information for any purpose other than to prepare your tax return unless you permit us by signing this statement.

If you approve use of your tax return information by (TAX OFFICE NAME). for a term of one year, please sign below.

Taxpayer Signature: _____

Print Name: _____

Date: _____

Taxpayer Spouse Signature: _____

Print Name: _____

Date: _____

If you believe your tax return information has been disclosed or used improperly in a manner unauthorized by law or without your permission, you may contact the Treasury Inspector General for Tax Administration (TIGTA) by telephone at 1-800-366-4484, or by email at complaints@tigta.treas.gov

WRITTEN INFORMATION SECURITY PLAN (WISP)

P. 7

- Failure to maintain a WISP could result in:
 - A Federal Trade Commission (FTC) investigation
 - Violation of malpractice insurance coverage
 - Discipline under Circular 230



- Practitioners have ethical and legal obligations to have a WISP

WRITTEN INFORMATION SECURITY PLAN (WISP) P. 7

A practitioner certifies compliance with WISP on their annual PTIN renewal (Figure 1.1)

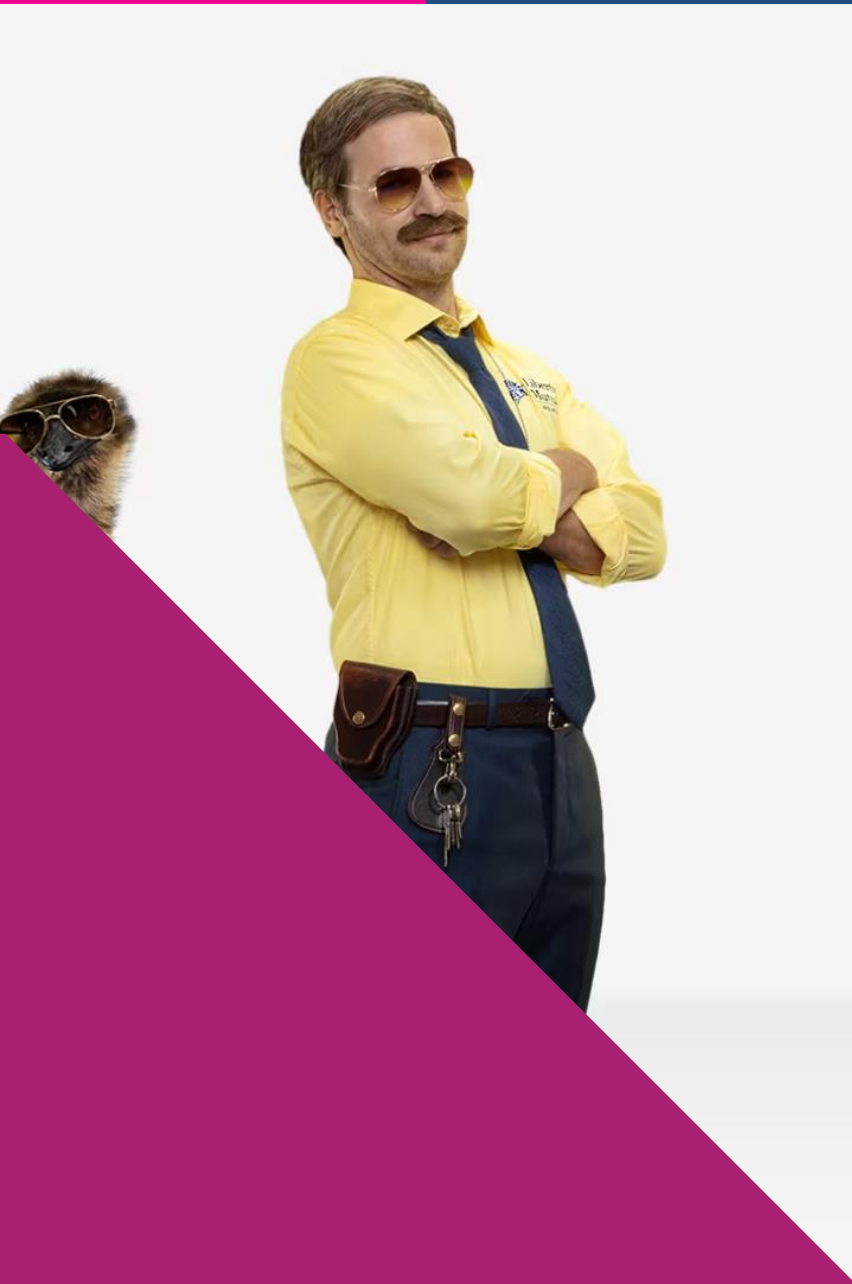
- **FIGURE 1.1 Certification of WISP Compliance**

11 Data Security Responsibilities	I am aware that paid tax return preparers must have a data security plan to provide data and system security protections for all taxpayer information. <input type="checkbox"/>
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Form **W-12** (Rev. 10-2023)

WRITTEN INFORMATION SECURITY PLAN (WISP) P. 8

- As part of the plan the FTC requires the following:
 1. Designate one (or more) employees to coordinate the plan
 2. Identify and assess the risks to customer information in each area of the business
 3. Design, implement, monitor and test a safeguards program
 4. Select service providers that can maintain safeguards
 5. Evaluate and adjust the program as needed



A WISP SHOULD BE APPROPRIATE FOR THE COMPANY'S SIZE, SCOPE OF ACTIVITIES, COMPLEXITY, AND THE SENSITIVITY OF THE CUSTOMER DATA IN THE COMPANY'S POSSESSION.

WRITTEN INFORMATION SECURITY PLAN (WISP) P. 8

- IRS Office of Professional Responsibility, Issue No. 2023-10
 - 12 Protocols designed to help practitioners develop their WISP
- IRS Security Summit
 - Created **IRS Publication 5708**, *Creating a Written Information Security Plan for your Tax & Accounting Practice*
 - The publication 5708 WISP has been updated and expanded - see IR 2024-28

WRITTEN INFORMATION SECURITY PLAN (WISP)

PP. 9-13

The sample WISP is based on the template in IRS Publication 5708

FIGURE 1.2 Sample WISP

PP. 9 – 13

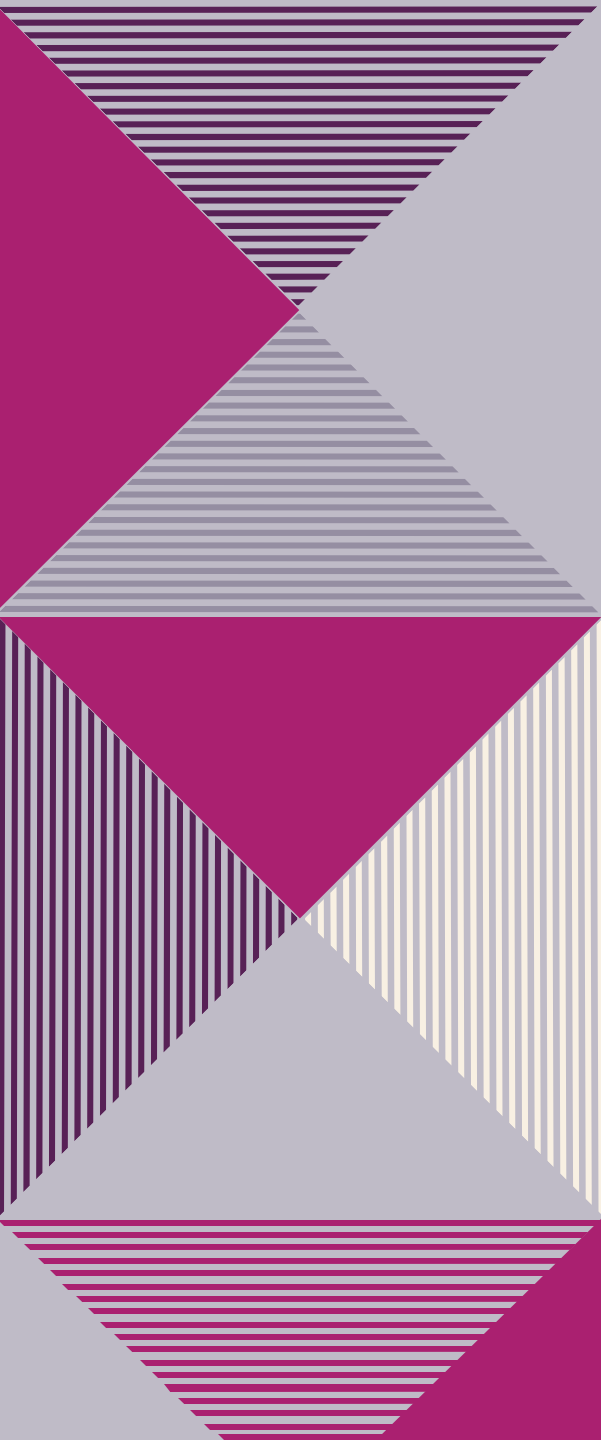
Note: This sample is provided for general educational purposes. A tax or accounting practice should develop its own WISP in conjunction with its legal counsel, insurance advisers, and information technology (IT) providers. See Pub. 5808 for 8/2024 revisions.



**BENEFICIAL
OWNERSHIP
INFORMATION
REPORTING**

THE PEOPLE VS CORPORATE TRANSPARENCY ACT

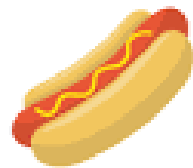




IN LIGHT OF A RECENT FEDERAL COURT ORDER, REPORTING COMPANIES ARE NOT CURRENTLY REQUIRED TO FILE BENEFICIAL OWNERSHIP INFORMATION WITH FINCEN AND ARE NOT SUBJECT TO LIABILITY IF THEY FAIL TO DO SO WHILE THE ORDER REMAINS IN FORCE. HOWEVER, REPORTING COMPANIES MAY CONTINUE TO VOLUNTARILY SUBMIT BENEFICIAL OWNERSHIP INFORMATION REPORTS.

SO, WHAT DO YOU RECOMMEND TO YOUR CLIENTS?

Is a hotdog a sandwich?



Games4esl.com

BENEFICIAL OWNERSHIP INTEREST (BOI) REPORTING

P. 14

In 2022, Financial Crimes Enforcement Network (FinCEN) issued a final rule implementing BOI reporting

The rule is intended to prevent and combat money laundering, terrorist financing, corruption, tax fraud, and other illicit activity

The regulations went into effect January 1, 2024

*"The facts, Ma'am.
Just the facts."*



BENEFICIAL OWNERSHIP INTEREST (BOI) REPORTING

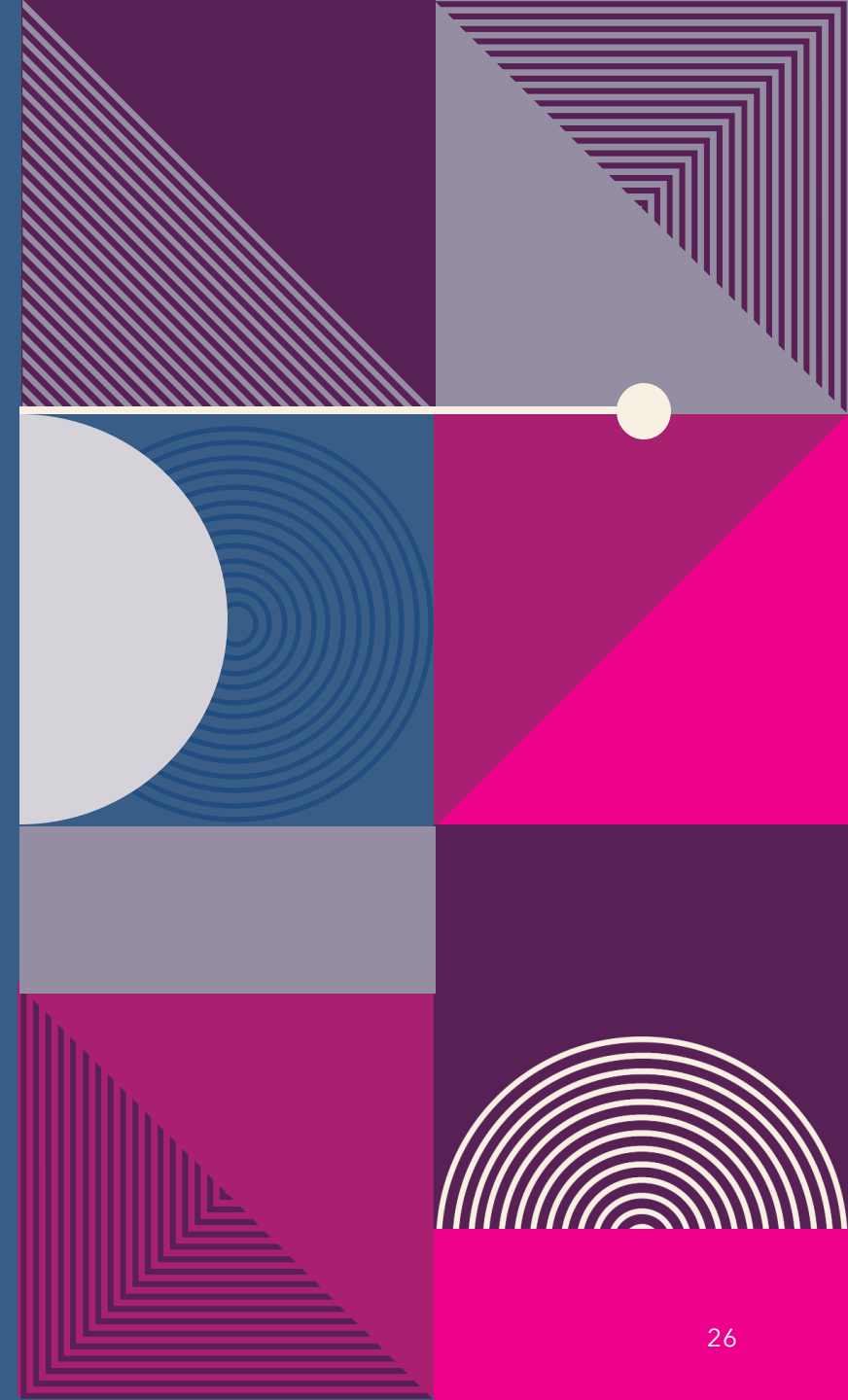
P. 14

Starting in 2024, the Corporate Transparency Act (CTA) requires entities to file reports on:

- Beneficial owners
- Individuals who created or registered the entity

Estimated 32,600,000 businesses will have to comply

**REMEMBER, YOUR
TEXT WAS WRITTEN
THIS PAST SUMMMER**



BENEFICIAL OWNERSHIP INTEREST (BOI) REPORTING

P. 14

- Tax practitioners may be asked to assist with filing the reports
- Practitioners must consider:
 - To not engage in practice of law
 - Protect confidential client information
 - Duty of competence

E & O INSURANCE

Practitioners must consider what services they want to provide

UNAUTHORIZED PRACTICE OF LAW^{PP. 14 -15}

- Circular 230 and state laws limit the practice of law to attorneys
- Is BOI reporting *considered legal advice or administrative assistance?*
- Two tests to determine:
 - **Difficult Question of Law Test p 15**
 - **Commonly Understood Test p 15**

PRACTITIONER NOTE: CIRCULAR 230

AUTHORITY

P.16

- Circular 230 § 10.37 authorizes a tax practitioner to give written advice on federal tax matters
- The Report of Foreign Bank and Financial Accounts (FBAR), discussed later, and CTA are both administered by FinCEN
- However, the IRS has specific authority to enforce FBAR violations, which makes it a law or regulation administered by the IRS. The IRS DOES NOT have authority to enforce BOI violations

DATA COLLECTION AND STORAGE¹⁶⁻¹⁷

A practitioner who decides to gather beneficial ownership information must collect personally identifiable information

The practitioner must exercise diligence in storing and protecting the information

Practitioners must comply with their WISP, federal, state, & professional organization policies to safeguard data (discussed earlier)

TIMELY AND CORRECTLY REPORTING

A tax practitioner that assists with BOI reporting must have the knowledge and experience necessary to complete the reports

They must familiarize themselves with the Corporate Transparency Act and BOI requirements

This includes staying current with other guidance issued by FinCEN



PRACTITIONER NOTE - PENALTIES^{§17}

Taxpayers who do not timely file the necessary BOI reports could face significant civil and criminal penalties

Senior officers of an entity that fail to file could be held responsible

A tax practitioner who knows that a reporting company has not timely or correctly filed a BOI report may have a duty to inform the company / owners about the penalties (Circular 230 § 10.21)

DUE DILIGENCE - MITIGATING THE RISKS

PP. 17-18

- Consider notice to clients of the new reporting requirements, regardless of whether the practitioner plans to assist with the reporting
- **Figure 1.3 - Sample Client BOI Reporting Notice**
- Practitioners can use engagement letters and detailed scopes of work to ensure a cooperative understanding with the client and lessen their professional liability regarding BOI
- **Figure 1.4 - Scope of BOI Reporting Services**

DUE DILIGENCE - MITIGATING THE RISKS

P.19

- Alternatively, if the tax practitioner will not provide BOI reporting services, the engagement letter should disclaim responsibility for providing those services
- **Figure 1.5 - Disclaim Responsibility for BOI**
- A practitioner who does file reports may have a duty to verify the information provided. Generally, practitioners may rely on information in good faith, but newer or more complex clients may require more substantiation
- **Figure 1.6 - Certification of Accuracy**

DUE DILIGENCE - MITIGATING THE RISKS

PP.19-20

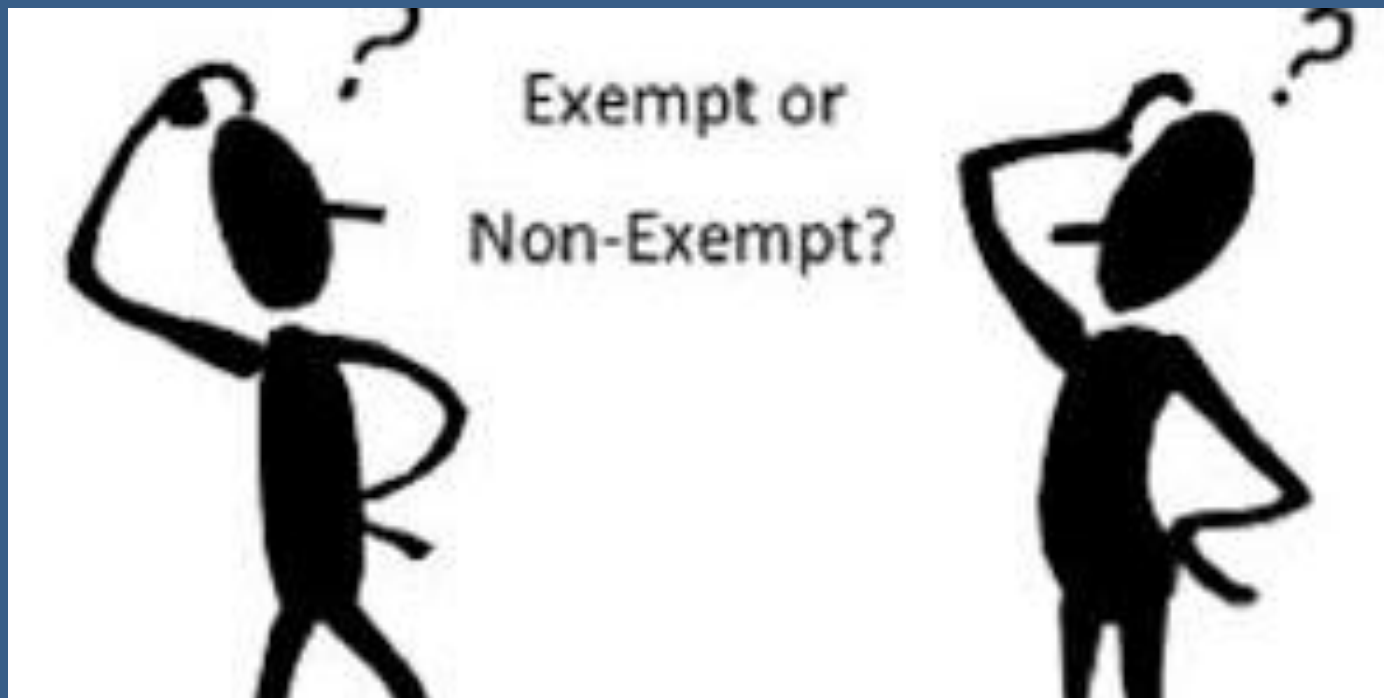
- Client information could change, which would necessitate clients notifying the practitioner and making updates to the report
- PRACTITIONER NOTE - updates are required regarding changes to owner's names, addresses, or unique identifying numbers
- **Figure 1.7 - Notification of Changes**

DUE DILIGENCE - MITIGATING THE RISKS

P. 20

- Tax practitioners should consult with their insurer to determine professional liability policy coverage for claims arising from BOI reporting services
- A written information security plan (WISP), discussed earlier, should address how the tax practitioner can fulfill his or her duties to keep the BOI information confidential and protected from nondisclosure

ENTITIES EXEMPT FROM FILING CTA REPORTS



EXEMPTIONS

- **Contains a list of 23 exemptions which include:**
- **Most large businesses.**
- **Publicly traded corporations.**
- **Businesses that are “heavily” regulated by the federal government.**
- **Only public accounting firms that are registered under Section 102 of Sarbanes-Oxley Act of 2002 of which there are only 851.**



SO, WHAT DOES THIS MEAN?

Only public accounting firms that are registered under Section 102 of Sarbanes-Oxley Act of 2002 of which there are only 851.

SECTION 102 OF THE SARBANES-OXLEY ACT OF 2002 PERTAINS TO THE REGISTRATION OF PUBLIC ACCOUNTING FIRMS WITH THE **PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD (PCAOB). THIS SECTION ESTABLISHES THE FRAMEWORK FOR REGULATING PUBLIC ACCOUNTING FIRMS THAT AUDIT PUBLICLY TRADED COMPANIES.**

- **Requirement to Register with PCAOB:**
- Any public accounting firm that prepares or issues audit reports for publicly traded companies (issuers) must register with the PCAOB.
- Registration ensures oversight and adherence to quality standards in financial reporting.

HOW MANY ARE THERE?



1. As of the most recent updates, there are over 1,700 public accounting firms registered with the Public Company Accounting Oversight Board (PCAOB). These firms include both U.S.-based firms and non-U.S. firms, with many of them being members of global audit networks.

DESPITE ALL THE EDUCATION....

- THE FOLLOWING QUESTIONS ARE STILL BEING ASKED?
 - MY SCH C CLIENT ISN'T REQUIRED TO FILE - RIGHT?
 - HOW MUCH ARE YOU CHARGING FOR FILING THE BOI REPORT?
 - I JUST FOUND OUT WHAT THE PENALTIES ARE! IS THAT RIGHT?
 - PARTNERSHIPS DON'T HAVE TO FILE - RIGHT?

The image features a dark blue background with a prominent white diagonal line running from the top-left to the bottom-right. On the left side, there are several geometric elements: a white circle at the top-left, a grey semi-circle, a pink square with a white concentric line pattern, a grey triangle, and a pink square. The text "DUE DILIGENCE FBAR" is centered in the right half of the image in a bold, white, sans-serif font.

DUE DILIGENCE FBAR

DUE DILIGENCE - FBAR

P. 21

- It's important for practitioners to exercise due diligence regarding foreign account reporting
- The IRS has identified hundreds of possible FBAR nonfilers
- The IRS plans to audit the most egregious cases in fiscal year 2024

TD F 90-22.1
(Rev. January 2012)
Department of the Treasury

Do not use previous editions of this form.

REPORT OF FOREIGN BANK AND FINANCIAL ACCOUNTS
Do NOT file with your Federal Tax Return

Part I Filer Information

2 Type of Filer
a Individual b Partnership c Corporation d Consolidated e Fiduciary or Other

3 U.S. Taxpayer Identification Number
If filer has no U.S. Identification Number complete Item 4.

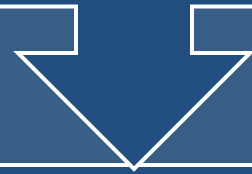
4 Foreign Identification (Complete only if item 3 is not applicable.)
a Type: Passport Other
b Number

6 Last Name or Organization Name

c Country of Issue
7 First Name

DUE DILIGENCE - FBAR

Report of Foreign Bank and Financial Accounts (FBAR) filings is required by the Bank Secrecy Act



Reporting is required of US persons who have a financial interest in a financial account in a foreign country where the aggregate value of the account exceeds \$10,000 at any time during the calendar year

DUE DILIGENCE - FBAR

PP. 21 - 22

- While the FBAR reporting is not a tax return, the information is referenced in tax returns such as Form 1040 Schedule B, Form 1041, Form 1065, and Form 1120
- Circular 230 §10.22 due diligence
- Taxpayers have defended against FBAR penalties by claiming reasonable reliance on the tax return preparer who failed to ask about foreign bank accounts or advise the taxpayer an FBAR was required

HAVE YOU ACTUALLY READ THESE?

Accounts and Trusts

Caution: If required, failure to file FinCEN Form 114 may result in substantial penalties. Additionally, you may be required to file Form 8938, Statement of Specified Foreign Financial Assets. See instructions.

- 7a** At any time during 2024, did you have a financial interest in or signature authority over a financial account (such as a bank account, securities account, or brokerage account) located in a foreign country? See instructions
- If “Yes,” are you required to file FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR), to report that financial interest or signature authority? See FinCEN Form 114 and its instructions for filing requirements and exceptions to those requirements
- b** If you are required to file FinCEN Form 114, list the name(s) of the foreign country(-ies) where the financial account(s) is (are) located: _____
- 8** During 2024, did you receive a distribution from, or were you the grantor of, or transferor to, a foreign trust? If “Yes,” you may have to file Form 3520. See instructions

Yes	No

For Paperwork Reduction Act Notice, see your tax return instructions.

Cat. No. 17146N

Schedule B (Form 1040) 2024

DUE DILIGENCE - FBAR

P. 23

- Practitioners have a duty under Circular 230 to ask clients for sufficient detail to prepare correct responses to foreign account questions on client tax returns
- Thus, practitioners must make a reasonable effort to obtain necessary information before signing as the preparer
- A request for information about foreign accounts is important

DUE DILIGENCE - FBAR

P. 23

- Eight questions a practitioner should ask to ascertain FBAR / tax return obligations:
 1. Has the client ever lived in a foreign country (including as a student)?
 2. Has the client ever worked in a foreign country?
 3. Does the client own any real estate in a foreign country?
 4. Does the client hold any interest in foreign private companies or other business entities?
 5. Is the client the current or designated beneficiary of a foreign trust or estate?
 6. Has the client received a gift from foreign sources?
 7. Does the client have any foreign investments, bank accounts, pension funds, life insurance policies, or power of attorney for a foreign resident?
 8. Does the client own any foreign stock?

QUESTIONS WE ASK ARE.....

ALIMONY PD \$ _____ DATE _____ SSN _____
SEP TP \$ _____ SP \$ _____

EDUCATION IRA \$ _____ \$ _____ #CHILDREN _____
COLLEGE 529 PLAN \$ _____ 1099-Q \$ _____

DO YOU HAVE ANY RELATIVES, PROPERTY, BANK ACCOUNTS, PENSIONS IN A FOREIGN COUNTRY? _____

DO ANY ONLINE GAMBLING? _____

HAVE YOU RECEIVED, SOLD, ACQUIRED OR EXCHANGED OR HAVE ANY INTEREST IN DIGITAL ASSETS? _____

CREDITS

EDUCATION CREDIT _____ YR _____

1098T _____ BOOKS, ETC. \$ _____

SELF PAY RECEIPTS _____ YR _____

STUDENT LOAN PAYMENT _____ YR _____

ACCOUNT HISTORY _____ V / M _____

RELIANCE ON INFORMATION

1. P.23



CIRCULAR
230 §10.34(D)



A TAX
PRACTITIONER
MAY GENERALLY
RELY IN GOOD
FAITH AND
WITHOUT
VERIFICATION
ON
INFORMATION
FURNISHED BY
THE TAXPAYER



HOWEVER,
THEY ARE
EXPECTED TO
MAKE
REASONABLE
INQUIRIES
WHEN FBAR
PARTICIPATION
SEEMS
POSSIBLE




IF THE INFORMATION
PROVIDED SEEMS
INCORRECT, INCONSISTENT
OR INCOMPLETE, THE
PRACTITIONER MUST
REQUEST MORE
INFORMATION FROM THE
TAXPAYER

DUTY TO ADVISE ABOUT FILING

P. 23

- Circular 230 §10.34(c)
- If the practitioner determines there is foreign bank account information to report, the practitioner is not obligated to prepare the FBAR for the taxpayer but must advise about filing
- The practitioner may decide to complete the filing if they are competent, and the client agrees to the service
- Circular 230 § 10.21 obligation to notify the taxpayer of the FBAR reporting requirement and consequences of failing to file the report



**DISCONTINUATION OF A TAX
PRACTICE**

DISCONTINUATION OF A TAX PRACTICE

- A practitioner has a duty to ensure continued provision of services when they retire, become incapacitated, or die
- Practitioners have a responsibility to their clients whose business or individual tax matters could be seriously disrupted if the practitioner is suddenly unavailable
- Circular 230 §§ 10.23 and 10.33 - prompt disposition of matters and clear communication

P. 24



PLANNING FOR A TRANSITION

P. 24

- Engagement letters and practitioner recordkeeping can play an important role in transitions
- The engagement letter informs clients about practice continuation in the event the practitioner is unavailable
- **Figure 1.9** shows a sample notice



PRACTICE CONTINUATION AGREEMENT

P. 25

- A sole practitioner has a duty to develop a formal succession plan to address termination of the business
- This should be in the engagement letter or otherwise communicated with clients
- This plan should address client notification, file transfers, and record retention



OBSERVATION

P. 25

- Some state CPA societies offer plans (also called emergency assistance plans) to assist the spouse and heirs in situations where the CPA failed to make arrangements ahead of time



PRACTICE CONTINUATION AGREEMENT

PP. 26 - 29

- **Figure 1.10** is a sample agreement for continuation of services in temporary incapacity
- The sample agreement is intended solely for *educational purposes*
- The continuation agreement should also address other situations such as permanent incapacity or death

PLANNING FOR PRACTICE CLOSURE

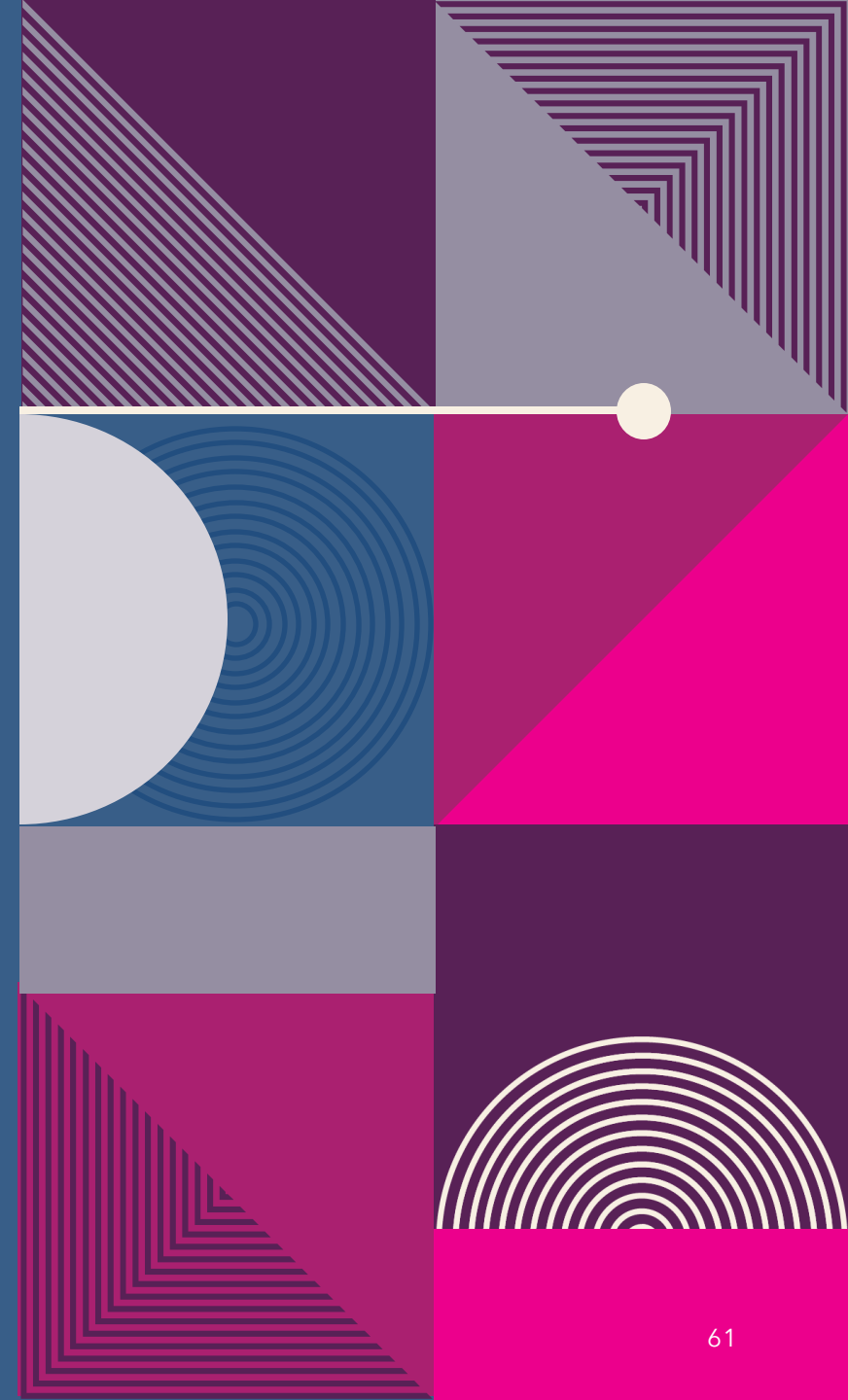
- A practitioner who is unable to identify a qualified successor may still have obligations in the event of discontinuation
- They should do the following:
 - Notify clients of the discontinuation
 - Return client records the they are required to provide the client
- They can authorize a designated person to close the tax practice. A limited power of attorney can grant authority, **Figure 1.11**

TOPICS YOU WANT! ANYTHING YOU'RE WANTING TO TALK ABOUT MORE?



1. AI FOR TAX RESEARCH QUESTIONS.....
2. ANYTHING ELSE?
3. WHAT DO YOU WANT?
4.
5.

FORM 1099-K



TRANSITION TIME REV PROC 2024-85



2024 \$5,000

2025 \$2,500

2026 \$ 600

