

CLIENT FOCUS

Winter 2023

From the Desk of Jeff Burr

PROPER ESTATE PLANNING IS A PROCESS, NOT AN EVENT

There is an important lesson I have learned during my over 40 years as an estate planner. That lesson is that estate planning is not an event, it is a process.

So many practitioners focus on the creation of the documents necessary to create a plan. However, they fail to understand that an estate plan is fluid and necessarily needs updating over time. In addition, often not enough attention is paid to all of the ancillary work that is necessary to carry out a proper estate plan such as titling of assets, keeping separate property separate, designing a plan that provides asset protection, keeping current on tax laws that may affect the plan as well as choosing the right individuals or trust company as Trustee.

As you are aware, at Jeffrey Burr, we pay close attention to all of the tasks and laws that cause an estate plan to be effective and relevant for our clients and their families. If you are reading this, you are already aware that we send out semiannual newsletters to keep you informed of important estate planning issues such as law or tax changes, and to give you ideas to strengthen and enhance your plan. We also send out communications as necessary to inform you of urgent pending law changes and resultant planning opportunities.

Part of the process of estate planning is also to assist you in funding your trust and the other entities that are created. We take great care in assisting you with the proper titling of your assets to avoid problems in the future.

During the interview process, we make every effort to ascertain if our clients have separate property as well as community property. Special planning is often necessary when this is the case. In Nevada, any gifts or inheritances you leave to your loved ones become the sole and separate property of that loved one, unless he or she commingles it with a spouse. Care should be taken to

ensure that what you leave to your heirs is left in a manner that facilitates that property remaining their separate property. Likewise, your trust can be designed to shield the assets you leave to your loved ones from their spouses in the event of divorce and creditors. In addition, many of our clients have blended families which usually calls for specialized planning.

As part of the estate planning process, we make every effort to help you choose what type of trust fits your needs the most. For example, if you are involved in a high-risk profession or have significant assets, you may choose to create an asset protection trust in addition to your revocable living trust.

Lastly, unfortunately, we all eventually pass on. At Jeffrey Burr, we have an excellent Trust Administration department to help your successor trustees and heirs navigate their way through the administration of your estate and ensure your heirs are informed every step of the way.

Hopefully you agree with me that proper estate planning is a process and not an event. The attorneys, paralegals and staff at Jeffrey Burr are committed to helping you through this process in a competent and caring manner. We thank you for allowing us to be part of your estate planning process.

~Jeff

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Happy Holidays

Warmest wishes for a joyous holiday
season and a happy new year!
May peace, love, and prosperity
follow you always.

~From your friends at Jeffrey Burr

contact us

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THE CORPORATE TRANSPARENCY ACT

If you own a small business or family office, you could soon be required to report ownership details to the federal government—or possibly face stiff penalties. Here's what you need to know.

What is it?

The Corporate Transparency Act (CTA), which goes into effect on January 1, 2024, requires otherwise unregulated companies to report information about "beneficial owners"—those who own at least 25% of or exercise substantial control over the reporting company. Newly formed Companies that fall under the definition of "Reporting Companies" will need to file the Beneficial Ownership Information ("BOI") report with the Financial Crimes Enforcement Network ("FinCEN"), a bureau of the U.S. Department of Treasury, beginning on January 1, 2024. Companies formed after January 1, 2024, will have thirty (30) days after formation to file the BOI report with FinCEN. Reporting Companies formed prior to January 1, 2024, will have until December 31, 2024, to file the BOI report with FinCEN. A Reporting Company is broadly defined as any entity formed by a filing with a secretary of state or any foreign entity that is registered to do business in the United States, which includes corporations, limited liability companies and limited partnerships.

The law exempts certain categories of businesses such as significantly tax-exempt entities and large operating companies. Large operating companies, put simply, have more than 20 full-time employees in the United States, a physical office in the United States and more than \$5 million in U.S. gross receipts.

What is the Impact on Trust Administration?

Trusts are exempt from filing under the Act unless they own an interest in or control a Reporting Company. For trusts that own an interest in a Reporting Company, the following individuals will be considered beneficial owners:

- ◆ Any trustee, direction advisor, protector, designated representative or other individual acting on behalf of the trust (whether a fiduciary under state law or not):
 - Who has the power to dispose of trust assets when the trust(s) and such individual (collectively) holds at least a 25% ownership interest in the reporting company;
 - Who controls a majority of the voting power or voting rights of the reporting company;
 - Who directs, determines or has substantial influence over important decisions made by the reporting company;
 - With the right to remove and replace senior officers of the reporting company;
- With the right to remove and replace a majority of the board of directors of the reporting company;

- ◆ Any trustee of a trust(s) that owns a majority of the voting power or voting rights in the reporting company; and
- ◆ Remainder beneficiaries and permissible appointees of a power of appointment likely are not considered beneficial owners because of the inheritance exception. Accordingly, a minor child is excluded from the definition of Beneficial Owner if information about a parent or legal guardian for that child is disclosed as the Beneficial Owner. An individual acting as nominee, intermediary, custodian, or agent is not a Beneficial Owner because that person does not ultimately control or economically benefit from the entity.

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What can you do to prepare?

FinCEN has not yet made public or initiated the Beneficial Ownership Secure System ("BOSS") where the BOI report must be electronically filed. This is expected to become operational on January 1, 2024.

What can you do now to prepare?

1. Secure FinCEN Identifiers as soon as possible.

To protect the privacy of any person who will be considered a Beneficial Owner, these individuals should secure FinCEN Identifiers as soon as it is possible. This will ease the burden on Reporting Companies to ensure that information provided in the BOI report is accurate, and regarding Beneficial Owners, up to date. Going forward, this will require the person securing the Identifier to continually update his or her address and possibly other information on the application or be subject to penalties.

As of December 18, 2023, FinCEN has not released the application that individuals will use to obtain a FinCEN Identifier. It is scheduled to do so on January 1, 2024.

2. Consult with your legal or accounting team.

Determining who must file and when may require some analysis by a law firm or other specialist. We can help you navigate your way through this initial process. If engaged to do so, we will provide additional guidance for you to help you comply with this new law.

3. Don't Panic!

The information you provide to FinCEN regarding the Reporting Company is the same information you need to provide to the Secretary of State except you must include the Tax ID Number and the FinCEN Identifier number of the Beneficial Owner and the Company Applicant. The database is not open to public view, and creditors and other entities other than the federal government should not be able to view the information. Your Reporting Company will continue to provide you with asset protection and other administration advantages.



On Saturday, September 16, the Jeffrey Burr team partnered with Palm Mortuary to raise money for the Candlelighters Superhero 5K Walk! Together, we raised \$5,604.97! (Well over our initial goal of \$3,000.00). Thank you to all who contributed!

Thank you to the Serving Our Kids Foundation for allowing Jeffrey Burr to sponsor the 14th hole at its 12th annual golf tournament.



Halloween party

HAPPENINGS

