

## Who Must Report?

A reporting company is:

- A domestic corporation, LLC (including a single member LLC), or an entity created by filing documents with a Secretary of State's office or similar under state law or Indian tribe (e.g. limited partnerships, limited liability partnerships, and business trusts). A state includes all U.S. commonwealths, territories, and possessions.
  - Simple version – If you created your entity by filing organizational papers with the state the entity must report. In most states sole proprietorships operating under a “doing business as”, trusts and general partnerships are **not** created by filing papers with the state, so they are not treated as a reporting company.
    - Even simpler version – The vast majority of small and medium-sized businesses are required to report.
    - Considering the substantial penalties consider adopting the motto “when in doubt report”
- A foreign corporation, LLC or other entity formed under the law of another country **and** registered to do business in any state or tribal jurisdiction by filing of a document with a Secretary of State or similar office.
- Suspended corporations and LLCs must report unless they meet the “inactive exemption” (please see the definition of inactive in the section on Exemptions).
- Exemptions
  - Public Accounting Firms, registered under Sec. 102 of the Sarbanes-Oxley Act.
    - Most small and medium sized CPA firms are not registered and therefore are not exempt, including my firm.
  - Large Operating Companies – must meet all three of the following conditions:
    - At least 20 full-time U.S. employees
      - A full-time is an employee who is employed an average of at least 30 hours per week. There is no full-time equivalency test applied.
      - Employee aggregation rules do not apply
    - With a U.S. physical office, and
    - That filed a federal income tax return in the prior year with more than \$5 million in U.S. gross receipts or sales.
  - Inactive Entities
    - To be considered inactive an entity must meet all six of the following conditions:
      - In existence on or before January 1, 2020;
      - Not engaged in active business;
      - Not owned by a foreign person (directly, indirectly, wholly or partially);
      - Has not had any change in ownership in the last 12 months;
      - Has not sent or received any funds in an amount greater than \$1,000 in the preceding 12 months; and
      - Does not hold any kind or type of assets (domestically or abroad), including any ownership interest in any corporation, LLC, or similar entity.

- To be safe you may want to consider closing any entities you have not been using. If you close the entity before January 1, 2025 it will not be required to report.
- Security Dealers or Brokers
- Investment Companies and Advisers registered with the SEC
- Venture Capital Fund Advisors that have filed specified schedules with the SEC
- Commodity Exchange Act registered entities
- Insurance Companies and state-licensed insurance providers
- Tax Exempt Organizations
- SEC Reporting Issuers
- Entities formed by and acting on the behalf of a government entity
- Banks, Credit Unions, Depository Institution Holding Companies, and Money-Transmitting businesses and
- Public Utilities