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Tax-Saving Tips

January 2025

Court Battles Rage: File Your FinCEN BOI Report Now or Wait?

Here's an update on the Corporate Transparency Act (CTA) and its beneficial ownership information (BOI) reporting requirements. Recent legal developments have created uncertainty around filing deadlines, and it's important to understand your options and responsibilities.

Background on the CTA

The CTA requires many smaller corporations and LLCs to file a BOI report with FinCEN, identifying and providing contact information for the individuals who own or control the entity. This report is used solely for law enforcement purposes and is not made public.

Initially, businesses in existence before 2024 were required to file by January 1, 2025, while new businesses formed in 2024 had a 90-day filing deadline. However, recent court rulings have disrupted these deadlines.

Current Status

As of January 1, 2025, a nationwide injunction is in place, delaying all BOI filing requirements. While the injunction is active, you are not required to file a BOI report, and no penalties apply for non-filing. The injunction impacts the following entities:

- Businesses formed before 2024 with a January 1, 2025, deadline
- New businesses formed in 2024 with a 90-day filing deadline
- Businesses with changes requiring updates to previously filed reports

Voluntary Filing Option

Although filing is not currently required, you may file voluntarily. This can simplify compliance by avoiding last-minute deadlines if the injunction is lifted. Should the injunction end, deadlines may resume with little notice, so being prepared is essential.

Takeaways

While the CTA remains under judicial review, you are not obligated to file your BOI report. But it may be prudent to prepare now by gathering the necessary information. If you have already filed, no further action is needed unless there are reportable changes.

Can Real Estate Professional Status Free Up Old Passive Losses?

Deducting your rental property tax losses against your other income is tricky, as you likely know. You have to get the tax law to treat you—say, a computer engineer—as a tax-code–defined real estate professional.

Let’s say you get there. Does that status allow immediate use of suspended passive losses? Unfortunately, the answer is no. Here’s why.

Understanding Passive Loss Rules

The tax code limits passive loss deductions to passive income, with any excess carried forward to future years. You release the carried-forward losses when you have offsetting passive income from the same or other passive activities, or when you completely dispose of the activity generating the loss.

Real Estate Professional Status

Qualifying as a real estate professional under IRS rules requires meeting two tests annually:

1. Spend more than 50 percent of your work time in real property trades or businesses.
2. Perform at least 750 hours of your work in real property trades or businesses.

Material Participation

Additionally, to create non-passive losses, you must materially participate in the rental activity.

The Two-Part Solution

Meeting (1) the real estate professional test and (2) the material participation standard allows current-year rental losses to offset non-passive income, such as wages or business income.

Impact on Prior Passive Losses

Qualifying as a real estate professional is not retroactive. Suspended passive losses from prior years remain subject to the original rules. You can use the prior suspended losses in the following ways:

- To offset passive income from the same or other passive activities
- When you completely dispose of the activity that created the suspended passive losses

Key Takeaways

Real estate professional status offers valuable tax benefits for your rental properties but does not free up prior passive losses. Annual testing is required to maintain this status.

Missed an Estimated Tax Payment—Now What?

Missing an estimated tax payment can result in non-deductible penalties. Make timely payments via IRS Direct Pay or EFTPS—secure and convenient methods to help you avoid the penalties.

Key Points

- **Due dates.** For tax year 2024, payment deadlines are April 15, June 17, and September 16, 2024, and January 15, 2025. For tax year 2025, payments are due April 15, June 16, and September 15, 2025, and January 15, 2026.
- **Avoid penalties.** Pay at least 90 percent of your current year’s tax or 100 percent of last year’s tax—or 110 percent if prior-year adjusted gross income (AGI) exceeds $150,000.

- **Exceptions.** Uneven income earners can use the annualized income method to align payments with earnings.

- **Catch-up payments.** Catching up when you miss a payment stops the penalty from accruing further but does not achieve forgiveness for the previous penalty assessed.

Tax-Free Home Sale: When and Why You Need to Report to the IRS

You're probably aware that when you sell your home, you may exclude up to $250,000 of your gain from tax if you're unmarried (or married, filing separately) and $500,000 if you are married and file jointly.

To claim the whole exclusion, you must have owned and lived in your home as your principal residence for an aggregate of at least two of the five years before the sale. You can claim the exclusion once every two years.

The home sale exclusion is one of the great tax benefits of home ownership. Many home sellers owe no tax at all when they sell their homes.

If a home sale is tax-free due to the exclusion, do you need to report the sale to the IRS on your tax return? It depends.

Your home sale may have already been reported to the IRS by your real estate agent, closing company, mortgage lender, or attorney. The IRS has a special information return for this purpose: Form 1099-S, Proceeds from Real Estate Transactions. This form lists

- the gross proceeds from the sale,
- the property address, and
- the closing date.

Typically, the 1099-S is issued at the home sale closing and is included in the closing documents you receive at settlement. If you received a Form 1099-S, you must report the sale on your tax return, even if your entire gain is tax-free due to the $250,000/$500,000 exclusion. Failure to do so will result in the IRS assuming that the selling price is the taxable gain (and that's a mess).

Form 1099-S need not be filed if your home sold for less than the applicable $250,000/$500,000 exclusion and you sign a certification stating that you qualified for the exclusion. You generally do this at the closing.

If Form 1099-S was not issued, the IRS does not require you to report the sale on your return. But doing so anyway can be a good idea because it can prevent the IRS from asserting that the six-year statute of limitations on audits should apply because you omitted more than 25 percent of gross income from your return.

Reporting the sale of a principal residence is not difficult. You must file IRS Form 8949, Sales and Other Dispositions of Capital Assets, with your annual return and enter your zero gain on IRS Schedule D.

Major Social Security News

President Biden has signed the Social Security Fairness Act of 2023. Retroactive to January 1, 2024, the law eliminates two Social Security provisions that reduced the amount of Social Security benefits paid to over 2.5 million recipients. Prior to being repealed, the Windfall Elimination Provision (WEP) and the Government Offset Provision (GOP) reduced the amount of Social Security benefits paid to government workers and the spousal and survivor Social Security benefits paid to families with retired government workers. This includes teachers, firefighters, police officers, and other civil service employees whose salaries were not subject to Social Security taxes.

According to the White House, the SSFA will result in an **average increase of $360 per month** for impacted recipients. Eligible recipients will also receive a lump sum payment in 2025 for the increased payments they are due for 2024 and early 2025.

According to the latest statement from the Social Security Administration, they are currently evaluating how to implement the SSFA and will provide information as soon as it is available.

Current Social Security recipients who are already receiving benefits at a reduced rate due to the WEP and GOP provisions should monitor the website: www.ssa.gov/benefits/retirement/social-security-fairness-act.html) for SSFA implementation details such as how their benefits will be recalculated, when the increased benefits will begin, and when they will receive their lump sum benefits.

Public pension recipients who are not receiving Social Security benefits because of the WEP or GOP provisions can and should apply for Social Security benefits as soon as possible.

In the meantime, taxpayers should prepare for how these payments may impact their tax liabilities. The increased benefits may have some adverse tax consequences for taxpayers. Below are some of the impacts and potential steps taxpayers may want to consider.

- **Estimated tax underpayments:** For many taxpayers, the increased benefits may result in estimated tax underpayments, especially because of the lump-sum retroactive payments. Taxpayers may want to review the extra Social Security income to see if any withholding adjustments should be made on these benefits. Estimated tax underpayments resulting from the lump-sum payment may be minimized, if not eliminated, by using the annualized income method.
- **More benefits subject to tax:** The increased benefit amounts may result in an increased amount of the Social Security benefits being subject to tax. This should be factored in when determining the amount of estimated tax payments going forward.