



# 4-Serenity, Inc.

## Tax-Saving Tips

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## Alert: A Massive New FinCEN Filing Requirement Is Coming

Do you own a corporation, limited liability company (LLC), limited partnership, limited liability partnership, limited liability limited partnership, or business trust?

Or are you planning to form one of these entities?

If so, be alert. There's a new federal filing requirement coming.

Back in 2021, Congress passed a new law called the Corporate Transparency Act (CTA) that requires corporations, LLCs, and other business entities to provide information about their owners to the Department of the Treasury's Financial Crimes Enforcement Network (FinCEN), which is a unit separate from the IRS.

The CTA is part of a government crackdown on corruption, money laundering, terrorist financing, tax fraud, and other illicit activity. It targets the use of anonymous shell companies that facilitate the flow and sheltering of illicit money in the United States.

Businesses subject to the law will have to file a "beneficial owner report" with FinCEN, including each beneficial owner's full legal name, date of birth, and residential street address, as well as an identifying number from a legal document such as a driver's license or passport. FinCEN will include the information in a database for use by law enforcement, national security and intelligence agencies, and federal regulators that enforce anti-money-laundering laws. The database will not be publicly accessible.

Violations of the CTA can result in a \$500-a-day penalty (up to \$10,000) and up to two years' imprisonment.

The CTA did not take effect immediately. Rather, Congress gave the FinCEN time to write regulations governing how the CTA should be applied and to give businesses a heads-up about the new law. FinCEN has now issued its proposed regulations, and they take a fairly hard line on how the law will be applied.

Here are four things the new regulations make clear.

**1. The filing requirement may begin soon.** The CTA goes into effect when the proposed regulations become final, which is expected to occur sometime in mid-to-late 2022. As soon as it goes into effect,

- **new** corporations, LLCs, and other entities will have to comply with the filing requirement within 14 days of being formed, and
- **existing** entities will have one year to comply.

## 2. Millions of small businesses are affected.

The reporting requirements will apply to almost every small business that is not a sole proprietorship or general partnership, including corporations, LLCs, limited liability partnerships, limited liability limited partnerships, business trusts, and most limited partnerships—over 30 million in all.

Larger companies with more than 20 full-time employees and \$5 million in gross receipts are exempt.

**3. There will be many beneficial owners.** The proposed regulations make it clear that a company can have multiple beneficial owners, and it may not always be easy to identify them all. There are two broad categories of beneficial owners:

- any individual who owns 25 percent or more of the company, and
- any individual who, directly or indirectly, exercises substantial control over the company.

## 4. Law and accounting firms are not exempt.

Neither the CTA nor the proposed regulations contain any exemption for legal or accounting firms, except for the relatively few public accounting firms registered under Section 102 of the Sarbanes-Oxley Act of 2002. Thus, any law or accounting firm that is a professional corporation or an LLC will have to file a beneficial owner report unless it has more than 20 employees and \$5 million in annual income.

## Deduct a Cruise to Mexico

You may not have thought of this, but taking a cruise ship to Mexico for a business meeting is acceptable as a deductible form of transportation.

Because Mexico is in the tax law–defined North American area, the law says that you need no stronger business reason to deduct your trip to Mexico than you need to deduct a trip to Chicago, Illinois, or Scottsdale, Arizona.

**Less-than-one-week rule.** If your trip is outside the 50 states but inside the North American area and if the trip is for seven or fewer days (excluding the day of departure), then the law allows you to deduct the entire cost of travel to and from this business destination. Mexico fits this location rule.

**Cruise ship transportation.** The law authorizes any type of transportation to and from your travel destination, so long as it is not lavish or extravagant. The cruise ship cost is not a lavish or extravagant expense, as the law precludes this possibility by placing luxury water limits on this type of travel.

The daily luxury water limit is twice the highest federal per diem rate allowable at the time of your travel.

**Example.** Say you are going to travel by cruise ship during September 2022. The \$433 maximum federal per diem rate for September 2022 comes from Nantucket, Massachusetts. Your daily luxury water limit is \$866 (2 x \$433).

Thus, for you and your spouse, two business travelers, the daily limit is \$1,732. On a six-night cruise, that's a cruise-ship cost ceiling of \$10,392. If you spend \$12,000, your deduction is limited to \$10,392. If you spend \$8,000, you deduct \$8,000.

## The IRS Wants to Know about Your Crypto

Cryptocurrency such as bitcoin is all the rage these days. Crypto is not legal money. It is property, similar to gold. Like gold, its use can result in taxable income.

The IRS is concerned that you and millions of Americans are using crypto without paying tax on the earnings. To clarify that it expects you and other taxpayers to report crypto earnings, the IRS added the following question about cryptocurrency to the top of Form 1040:

*At any time during 2021, did you receive, sell, exchange, or otherwise dispose of any financial interest in any virtual currency?*

You must answer this question under penalty of perjury, even if you have never heard of bitcoin and don't know what cryptocurrency is. You can't leave the field blank.

Unfortunately, this is something of a trick question. It is so broadly worded; you'd think any transaction involving digital currency requires a "yes" answer. But that is not the case.

IRS guidance makes clear that it is interested only in virtual currency transactions that result in taxable income (or loss) that must be reported on a taxpayer's return.

Thus, for example, if you simply purchased bitcoin during the year and held on to it, you should answer "no" to the crypto question. The same goes if you received crypto as a gift, or transferred crypto from one wallet to another.

You should answer "yes" to the crypto question if you purchased or sold goods or services with crypto, received new crypto through mining or

staking activities, exchanged crypto for dollars or other crypto, or got new crypto from a hard fork. All these activities result in taxable income (or loss).

What should you do if you answered the crypto question wrong?

If you answered the crypto question "yes" when you should have answered "no," you don't have to do anything. There is no need to amend your tax return.

On the other hand, if you answered "no" when it should have been "yes" and you did not report your taxable virtual currency transactions, you need to file an amended or superseding return. If you fail to do so, you may get a letter from the IRS advising you to file an amended return and pay any taxes due. The IRS began sending out such letters in 2019.

## Mileage Rate Increased to 62.5 Cents Per Mile

In recognition of recent gasoline price increases, the IRS increased the optional business standard mileage rate for the final six months of 2022, including the rate for deductible medical, and moving expenses (available for active-duty members of the military).

Beginning July 1, 2022, the rates are 62.5 cents per mile for business use of an automobile (up from 58.5 cents per mile for the first six months), and 22 cents per mile for the cost of using an automobile for medical or moving expense purposes (up from 18 cents per mile for the first six months).

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