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NY enacts amendment to New York LLC Transparency Act

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April 5, 2024 - On March 1, 2024, New York Governor Kathy Hochul signed into law a so-called “chapter amendment”¹ (the “[Chapter Amendment](#)”) to revise the New York LLC Transparency Act (the “[NYLTA](#)”)², which was signed into law December 23, 2023 (as previously covered [here](#)). The NYLTA is broadly modeled upon the Corporate Transparency Act (the “[CTA](#)”), a recently-enacted federal law (our prior client advisories on the CTA can be found [here](#)). The NYLTA will take effect January 1, 2026 and be applicable only to Limited Liability Companies (“[LLC’s](#)”) formed or qualified to do business in New York.

Below is a summary of the final version of the NYLTA, reflecting the changes made by the Chapter Amendment.

- 1. Who has to file?** All LLC’s formed or qualified to do business in New York, except those that qualify for one of the 23 exemptions found in the CTA, must file a beneficial owner disclosure statement with the New York Department of State (“[NYDOS](#)”).³

Note that each LLC claiming an exemption has to file an attestation of exemption detailing the specific exemption claimed and the facts on which such exemption is based. This is a new requirement included in the Chapter Amendment. No such filing is required under the CTA.

- 2. What information is required in the disclosure?** The following information needs to be included for each “beneficial owner” and “applicant” (each as defined in the CTA⁴), of the reporting LLC: (i) full legal name, (ii) date of birth, (iii) current home or business street address, and (iv) a unique identifying number from a government issued identification card (but such identification card does not need to be uploaded with the filing, unlike under the CTA). An updated and corrected beneficial ownership statement may be submitted up to 90 days after the original filing.

Note that each reporting LLC is required to file an annual statement with the NYDOS confirming or updating (1) its beneficial ownership disclosure information, (2) the street address of its principal executive office, (3) status as exempt company, if applicable, and (4) such other information as may be designated by the NYDOS. This differs from the CTA, which only requires a filing update upon a change in the information filed.

3. **When do filings have to be made?** LLCs formed or authorized to do business in New York on or after January 1, 2026, must file a beneficial ownership disclosure statement or an attestation of exemption within 30 days of filing the articles of organization or an application for authority to do business in New York. LLCs formed or authorized to do business in New York before January 1, 2026, must file their first beneficial ownership disclosure statement or an attestation of exemption before January 1, 2027.
4. **What is the penalty for not making a required filing?** Any LLC that is 30 or more days delinquent in filing a beneficial ownership statement, attestation of exemption or required annual filing may be assessed a fine of up to \$500 for each day that such LLC has a “past due” or “delinquent” record. Further, the New York Attorney General may bring an action to dissolve, cancel or annul authorization to do business for any LLC that is delinquent in filing its beneficial ownership disclosure statement or attestation of exemption, or that has knowingly provided, or attempted to provide, false or fraudulent beneficial ownership information.
5. **Are the filings confidential?** The original NYLTA required public disclosure of the beneficial owners of reporting LLC’s in a publicly searchable database maintained by the NYDOS. The Chapter Amendment removes this requirement. Beneficial owners’ information included in a beneficial ownership disclosure will be deemed confidential except to federal, state and local governmental agencies in limited circumstances, among other limited exclusions.

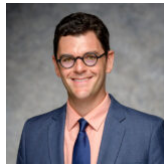
Readers should note that a court in Alabama recently held the CTA to be unconstitutional in a case brought by Hughes Hubbard (read more about it [here](#)).⁵ The federal government has appealed this decision. It is not clear what would happen to the NYLTA if the CTA is finally determined to be unconstitutional.

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1. As discussed in our prior alert, use of a “chapter amendment” is an informal procedure in New York State by which the governor and the legislature agree, at the time the governor signs a bill, to pass an amending bill in the next legislative session in order to facilitate the legislative process. [↪](#)
 2. New York Senate Bill 995-B (enacted December 22, 2023), as amended by Chapter Amendment on March 1, 2024 (Senate Bill 8059/Assembly Bill 8544). [↪](#)
 3. Such exemptions include but are not limited to 1) operating companies with more than 20 full-time U.S. employees, annual U.S.-sourced gross receipts or sales of greater than \$5 million that operate in a physical office within the U.S., 2) issuers of SEC-registered securities, 3) SEC-registered investment companies or investment advisors, 4) venture capital fund advisors, 5) tax-exempt entities, 6) insurance companies and certain other highly regulated entities, and 7) wholly owned/controlled subsidiaries of certain exempt companies. [↪](#)
 4. The Chapter Amendment cross-references the CTA definitions of “beneficial owner” and “applicant”, but solely in reference to LLCs. A “beneficial owner” means an individual who, directly or indirectly, exercises substantial control over the LLC or owns or controls at least 25% of the ownership interests of the LLC. An “applicant” means the individual who files the document that creates or authorizes the LLC or the individual who is primarily responsible for directly or controlling such filing. The federal Treasury Department has issued [regulations](#) and [FAQs](#) elaborating on the statutory definitions of these terms. [↪](#)
 5. Nat’l Small Bus. United v. Yellen, No. 5:22-CV-1448-LCB, 2024 WL 899372 (N.D. Ala. Mar. 1, 2024). [↪](#)

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