



'Happy Fall Y'all'

As the days grow shorter and the air turns cooler, we at Brager Tax Law Group want to take a moment to extend our heartfelt gratitude to you.

This season of reflection reminds us how thankful we are for your trust and partnership, whether you are working through tax litigation issues or just checking in.

In this fall edition of our newsletter, we have three pertinent articles to keep you informed as the year's end approaches. Our first feature article on page 2 is an exciting announcement by the IRS and the Taxpayer Advocate's office about the IRS '**Easing Penalties for Foreign Gifts, Inheritances, and Trust Reporting Requirements**'.

We are also covering the **Corporate Transparency Act (CTA)** on Page 3, a law with a deadline creeping up faster than your holiday shopping list. Finally, don't miss our **article on how to handle the IRS CP 504 notice written by our 'Collections Guru' and former IRS tax attorney, Linette Young on Page 4.**

We have **10 complimentary tickets to give away on Page 4 for the Strafford Webinar on CTA Violations.** I recommend that our clients seize the opportunity to stay informed of CTA matters given the deadline.

While on the subject of giveaways, after all it's the holidays and time for giving, you don't want to miss the chance to win a **\$100 Starbucks gift card** — perfect for sipping cocoa with marshmallows under a blanket while binging those Hallmark holiday movies (we won't judge).

As always, we are here to assist you in navigating any IRS tax collection matters that might come your way, so please don't hesitate to reach out.

On behalf of my team, we wish you a very Happy Thanksgiving and a cozy, pumpkin-filled fall season!

Cheryl R. Frank, Esq.

Happy
Thanksgiving



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Fall 2024 E-Newsletter

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STARBUCKS MEGA \$100 GIFT CARD

Get your 'Pumpkin Spice' latte fix with our mega \$100 Starbucks gift card. This is our largest giveaway yet, which will go out to a very lucky winner so that you can get your pumpkin-spice everything coma, just in time for the holidays.

We also want to congratulate **Jonathan Karp and Kevin Blair** who each won a \$50 gift card from our Starbucks Summer Newsletter edition contest.

For your chance to win the \$100 gift card, simply answer these three questions related to our Fall Newsletter, and send your reply to aferreira@bragertaxlaw.com by **November 15th, 2024.**

1. Why is it important to be in "filing compliance" and "payment compliance" with the IRS? (Hint: Answer on page 2)
2. What is a Reporting Company under the Corporate Transparency Act? (Hint: Page 3)
3. What Strafford Publications Webinar is Cheryl Frank speaking at on November 19th, 2024?

All three questions must be answered correctly to be eligible for the drawing. The winner will be notified by email by December 2nd, 2024, and will also be announced in our Winter Newsletter issue, which will be out in January 2025!

Terms & Conditions:

- Gift cards are not exchangeable for cash.
- Staff and immediate family of Brager Tax Law Group are not eligible to participate in this contest.
- Previous winners may not enter 2 consecutive competitions.



Exciting News: IRS Eases Penalties for Foreign Gifts, Inheritances, and Trust Reporting Requirements

By Cheryl Frank

In a long-anticipated and positive change, the IRS has announced it will stop automatically penalizing taxpayers who file late on Form 3520 for foreign gifts and inheritances, as well as Forms 3520 and 3520-A for foreign trusts. This shift results from years of urging by the Taxpayer Advocate Service (TAS) and tax practitioners, who have been vocal about the burdens these automatic penalties placed on many taxpayers, often for simple oversights rather than intentional non-compliance.

Background on the IRS' Approach to Foreign Reporting Penalties

The IRS requires U.S. taxpayers to report foreign gifts, inheritances, and certain foreign trust activities. While aimed at preventing tax avoidance, these rules apply even when there's no tax owed, and the penalties for late filing have historically been high. For example, under Internal Revenue Code Section 6039F, U.S. taxpayers who receive foreign gifts or inheritances over \$100,000 must file Form 3520, Part IV, while Section 6048 mandates reporting of certain foreign trust transactions on Forms 3520 and 3520-A.

These penalties were imposed automatically whenever taxpayers filed these forms late, even if they included a statement explaining the reason for the delay. This practice was especially hard on lower-income individuals and small businesses without access to sophisticated tax advisors, resulting in high penalties, sometimes 25% of the reported gift's value, even though no taxes were due.

An Overdue Change for Fairer Treatment

For the past decade, the IRS's automatic penalty system placed a heavy burden on taxpayers trying to comply. ***Read more on the recent Taxpayer Advocate blog [here](#).***

This change offers a more balanced approach, especially for taxpayers caught off guard by complex reporting rules. Commissioner Danny Werfel said "Congress intended these penalties to prevent abuse, not to penalize those trying to comply." He emphasized that ending these automatic penalties will offer relief for those handling unexpected situations, such as a foreign inheritance.

A Win for Taxpayers and Voluntary Compliance

Ending automatic assessments for foreign gifts, inheritances, and trust filings should reduce unnecessary penalties and encourage voluntary compliance. Between 2018 and 2021, over \$179 million in foreign gift-related penalties were abated after taxpayers appealed, underscoring the previous policy's undue burden. By considering taxpayer circumstances before penalizing, the IRS aims to foster a more fair system that prioritizes accuracy over punishment.

Final Thoughts

This policy change is a significant win for taxpayers, particularly for those who want to do the right thing but may be unfamiliar with complex international reporting rules. With the IRS shifting its stance, individuals facing foreign reporting requirements now have a fairer chance to explain their situation before penalties are assessed. As the IRS moves in this direction, we hope to see these changes expand across all international reporting forms, easing the burden on those navigating these requirements. Taxpayers are encouraged to seek professional advice to navigate these changes confidently and ensure they remain compliant without risking unnecessary penalties.

For assistance with foreign gifts, trust reporting, or FBAR litigation issues, contact Brager Tax Law Group, where one of our former IRS tax attorneys can help. Call us at 310-208-6200 or visit our website at www.bragertaxlaw.com.

The Corporate Transparency Act (CTA): Because Who Doesn't Love a Last-Minute Deadline?

By Ana-Paula Ferreira



Let's talk about the **Corporate Transparency Act (CTA)** — because obviously, what we all needed was more regulation, right? The CTA is here to bring us joy by adding *yet another* requirement for businesses to disclose their ownership to the **Financial Crimes Enforcement Network (FinCEN)**. The goal? To combat big bad things like money laundering and tax evasion. But really, it's to see how quickly businesses can scramble to avoid hefty penalties.

A Quick History Lesson You Didn't Ask For

Once upon a time, the U.S. had no idea who owned what. Anonymous shell companies were having a field day, hiding all kinds of shady activities. So, Congress, in a stroke of brilliance (and with bipartisan support, because why not), gave birth to the CTA. This act supposedly closes those loopholes and keeps things transparent. *Sure*, because more paperwork always does the trick.

The Deadline You'll Pretend Isn't Looming

Here's the best part: If your company was around before **January 1, 2024**, you have until **January 1, 2025**, to report who really owns your company. Sounds far away, right? It's not. The panic is already setting in for businesses trying to figure out how to meet this "totally reasonable" deadline. If you formed your company after January 1, 2024, don't worry—you only have **90 days** to get your act together. No pressure though. So yeah, you should *probably* start preparing now, unless you're into daily fines that accumulate at \$500 per day. I call it the 'CTA Penalties Lottery'. Ouch for the small one-man band LLC sole proprietor. You read correctly, read more on that further on.

What is a "Reporting Company" Anyway?

If you're a business in the U.S. or doing business in the U.S., the CTA has its eyes on you. The list includes corporations, LLCs, and any business that files with a state. Oh, but wait—if you're a **bank**, a **government entity**, or a **giant company** (you know, with \$5 million or more in revenue and over 20 employees), you get a free pass. Must be nice, huh?

For Everyone Else: Good Luck Figuring Out Ownership

You thought you knew who owned your company? Think again. Under the CTA, you have to disclose anyone who owns at least **25%** of the company. And don't forget those with "substantial control"—people who can boss others around, sign contracts, and generally throw their weight around. Even if someone only owns **zero percent** of the company but acts like they own it, yep, you still have to report them.

Ignore the CTA at Your Own Risk (Spoiler: It's Going Cost You)

If you think you can wait this out and pretend the CTA doesn't apply to you, I've got bad news. Fines start at **\$500 per day**. You could be staring down the barrel of **\$10,000 in fines** and a cozy two-year prison sentence if the government decides you've been especially sneaky. But don't worry — should you accidentally mess up your report, they give you a '*generous*' **90-day** grace period to fix it.

Here's What You Really Need to Do Besides Panic

To survive this latest bureaucratic hurdle, here's what you should (probably) do:

1. **Appoint someone** to deal with all this nonsense. Call them your "CTA Officer" or "Chief Person-Who-Has-To-Deal-With-This."
2. **Perform an audit** and try to figure out who *actually* owns your company. It might surprise you.
3. **Gather every piece of information** imaginable, because the government wants it all.
4. **File on time**. Seriously.
5. **Protect your data**, because nothing says "secure" like uploading all your sensitive info onto a government database.
6. Be ready to **call us at Brager Tax Law Group if you missed the deadline and are in a CTA pickle when those pesty letters from the IRS arrive**.

Final Thoughts: The Deadline of January 2025 is still coming and is less than 60 days away. Breathe.... Yeah, right!

Send an Email to
afferreira@bragertaxlaw.com
to Receive Our Complimentary
CTA Handbook

HELP!
I got a CP 504 from the
IRS:
What to Do When You
Get an IRS CP 504.

By Linette Young

It's scary to open your mail and read this notice. It screams "Final Balance Due Reminder- Notice of Intent to Levy your Property or Rights to Property"! Then when you Google CP 504, the link to the IRS explanation on IRS.gov tells you:

What this notice is about:

You received this notice because we haven't received payment of your unpaid balance. This notice is your Notice of Intent to Levy (Internal Revenue Code section 6331 (d)). If you don't pay the amount due immediately, the IRS can levy your income and bank accounts, as well as seize your property or your right to property including your state income tax refund to pay the amount you owe.

Would the IRS lie to you? Perhaps not intentionally, but they certainly are shading the truth with this description of the CP 504 Notice. The explanation is technically true, but leaves out the most important information that you need to know: this is **not** the final notice you will receive before the IRS can legally levy absent extenuating circumstances.

When you incur a new liability, the IRS generally ramps up its notices to you: please pay (normal bill), pay or we are going to levy (CP 504) and *here's the real notice that we're about to levy you* (Final Notice of Intent to Levy, CP 90, LT11).

Congress wants to make sure you really owe the tax the IRS is trying to collect and that you have a chance to propose a "collection alternative" before the IRS can levy. IRC section 6330 requires the IRS to notify you of levy and give you a chance to appeal before the IRS can levy. This notice is referred to as a "Final Notice of Intent to Levy". But wait you say, my CP 504 said that! Yes, your CP 504 includes this phrase-- but it doesn't include the rest of the phrase "and Your Collection Due Process Right to a Hearing" which is what IRC 6330 actually requires:

No levy may be made on any property or right to property of any person unless the Secretary has notified such person in writing of their right to a hearing under this section before such levy is made. Such notice shall be required only once for the taxable period to which the unpaid tax specified in paragraph (3)(A) relates.
IRC 6330(a)(1) (emphasis added).

If the Notice you receive includes this phrase, then you have received the final notice before the IRS may levy. If you do not appeal, the IRS will have the **right** to levy after 30 days. Will the IRS levy at the end of 30 days? Depends. The IRS suspended much of its enforced collection during the Covid19 pandemic. They recently reversed this and are sending out more CP 504 Notices. However, this doesn't necessarily mean that you will be collected upon immediately. There are many factors that go into how the IRS chooses to collect, your total amount owed, the type of tax, whether the statute of limitations on collection is about to expire, even their training needs. Our office has recently had several clients who owe relatively small amounts who have a trainee Revenue Officer (as opposed to automated collection) assigned to their case.

Now that you understand what you have received in the mail, what do you do? Each person's tax situation is unique, but we recommend tackling your situation head on. If you can pay the tax, then certainly pay and your problem is over. However, if you cannot immediately pay, realistically assess your tax situation. If you have unfiled returns, get your past due returns filed. Also, make sure your tax withholding is correct or you are making current Estimated Tax payments. Why? Because without being in "filing compliance" and "payment compliance" the IRS cannot grant you an Installment Agreement or an Offer in Compromise. You will likely need one of these to offer the IRS as an alternative to levy.

We are here to help you. We have helped thousands of clients with their tax obligations and we do so with honesty, professionalism and expertise.

Call one of our tax litigation specialists and former IRS attorneys for a **complimentary phone consultation** if you are experiencing any tax controversy issues at **310-208-6200** or for more information visit: www.bragertaxlaw.com.

UCLA Tax Controversy Institute's 40th Annual Conference



Cheryl Frank, pictured above left and center bottom image, was a panelist at this year's Annual UCLA Tax Controversy Institute Conference held at the Beverly Hills Hotel on October 24th, 2024. The event, which celebrated 40 years, is the preeminent conference exclusively dedicated to tax controversy and tax litigation. The conference provides an open forum for distinguished presenters and panelists to discuss and debate sensitive tax practice issues with an engaged audience including tax attorneys and CPA's.



10 Complimentary Tickets Valued at \$250 each are Up for Grabs
Strafford Webinar:
Defending Corporate Transparency Act Violations: Key Issues for Litigators

Tuesday, November 19, 2024
10:00am-11:30am PST
(1:00pm-2:30pm EST)

Cheryl Frank, Tax Attorney and Managing Director from Brager Tax Law Group and Anthony Mirenda, Partner at Foaly Hoag will be presenting this CLE webinar where they will discuss the penalties for violating the Corporate Transparency Act (CTA) and the U.S. Dept. of the Treasury's Financial Crimes Enforcement Network's (FinCEN) enforcement mechanisms so that counsel can design and build an effective defense. The panel will review what constitutes civil and criminal violations, procedural issues, burdens of proof, best first steps upon receipt of notice of an alleged violation, how to possibly stop the accrual of fines, insurability of damages, vicarious or agency liability, and more.

Benefits of Attending:

The panel will review key issues including:

- What constitutes "knowing" violation?
- Can a compliance program reduce the risk of disclosure and use violations?
- Are there any safe harbors for good faith attempts at compliance?

We are offering 10 complimentary tickets to this webinar valued at almost \$250 each on a first-come-first served basis. Send an email with your name, company, telephone number and email address to: aferreira@bragertaxlaw.com

[Click here](#) for more information or to register.

Turkey or Tax Bill?
Navigate Thanksgiving
Without Ruffling IRS Feathers.
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or email: info@bragertaxlaw.com

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