

By Daniel B. Axman, Trusts & Estates Partner

Update to Alert issued November 20, 2025 - read [here](#)

Governor's Veto of Senate Bill 8432

On December 19, 2025, Kathy Hochul vetoed Senate Bill 8432, legislation that would have revised the New York LLC Transparency Act (the "[NYLTA](#)") by redefining key terms, including "reporting company," "beneficial owner," and "exempt company". The purpose of redefining these terms was to allow New York to impose beneficial ownership reporting obligations independent of the federal Corporate Transparency Act.

Governor Hochul's veto was consistent with previous internal guidance from the New York State Department that had indicated enforcement would be limited to LLCs formed outside the U.S. that are registered to do business in New York.

Had the bill been enacted, it would have expanded the NYLTA's reach to include limited liability companies ("[LLCs](#)") formed under New York law and LLCs formed in other U.S. states that are registered to do business in New York.

Practical Impact of the Veto

As a result of the Governor's veto, the NYLTA still took effect on January 1, 2026, but its scope has been severely limited to LLCs that are formed outside of the U.S. that are registered to do business in New York.

Domestic LLCs, including those formed under New York law, and those formed in other U.S. states that are registered to do business in New York, are not required to file beneficial ownership information reports under the NYLTA.

This outcome aligns the NYLTA's practical reach with the narrowed enforcement framework of the federal CTA, which now applies only to entities formed outside the U.S.

Key Takeaways

- Effective Date: January 1, 2026

- Entities Subject to Reporting:
 - LLCs formed outside the U.S. that are registered to do business in New York

- Entities Not Subject to Reporting:
 - New York LLCs

 - LLCs formed in other U.S. States and registered to do business in New York

- Legislative Status:
 - Senate Bill 8432 has been vetoed; no expansion of reporting obligations to domestic LLCs is applicable at this time

Next Steps

- LLCs formed outside the U.S. that are registered to do business in New York should begin preparing for compliance with the NYLTA's beneficial ownership reporting requirements.
- Domestic LLCs have no reporting requirements.
- We continue to monitor the regulatory guidance issued by the New York Department of State regarding filing mechanics and enforcement.

Golenbock will provide further updates if legislative developments warrant renewed attention.

Contacts:

Daniel B. Axman
daxman@golenbock.com
(212) 907-7379

Elizabeth Man-Wai Li
eli@golenbock.com
(212) 907-7357

Barry A. Cassell
bcassell@golenbock.com
(212) 907-7337

Alison Wong
awong@golenbock.com
(212) 907-7300

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On October 8, 2025, Golenbock issued a Legal Alert, *New York LLC Transparency Act: A New Compliance Era for Businesses*, which outlined the key provisions and uncertainties surrounding the New York LLC Transparency Act (“NYLTA”), set to take effect on January 1, 2026.

At that time, there were significant unanswered questions regarding how the law would apply to limited liability companies (“LLCs”) formed in New York or authorized to do business in New York, especially in light of the federal Corporate Transparency Act (“CTA”) being substantially narrowed earlier this year.

Background Recap

As we discussed in our October alert, the NYLTA was modeled on the federal CTA and would require many LLCs to disclose their beneficial ownership information to the New York Department of State (“NYDOS”).

However, because the federal CTA no longer requires U.S.-formed entities to file beneficial ownership reports, it was unclear whether the NYLTA would apply broadly to New York LLCs or only to foreign entities registered to do business in New York. Adding to the uncertainty, the New York Legislature passed Senate Bill 8432 in June 2025 to clarify the statute, but it has yet to be signed by Governor Hochul. Meanwhile, the NYDOS has not released implementation guidance or a filing portal, leaving businesses without a clear compliance path ahead of the 2026 effective date.

Current Update (as of November 2025)

The NYLTA is still set to take effect on January 1, 2026, and will impose new ownership disclosure and annual reporting obligations for certain LLCs registered to transact business in New York. The law grants the New York Secretary of State, through the NYDOS, authority to issue rules and regulations to implement and enforce the statute.

While no formal guidance has been issued yet, the NYDOS has informally indicated through third-party compliance service providers that, absent action by Governor Hochul, only LLCs formed under the laws of another country and registered to do business in New York will be subject to beneficial ownership disclosure. This interpretation aligns with the narrowed federal enforcement framework under the CTA, which focuses solely on foreign country-domiciled entities.

That interpretation could still change. The New York Legislature has passed a bill that would decouple New York's definitions from the CTA, giving the state independent authority to require reporting from domestic LLCs as well. This bill is currently awaiting the Governor's signature.

We anticipate official NYDOS guidance in December 2025, which should clarify the scope of entities required to report and the mechanics of the filing process.

Key Takeaways

- Effective Date: January 1, 2026.
- Reporting Scope (Current Interpretation): Only foreign LLCs registered to do business in New York are

expected to be subject to initial disclosure requirements.

- Pending Legislation: If Governor Hochul signs the pending bill, the NYLTA's definitions could expand reporting obligations to include domestic LLCs.
- Guidance Expected: NYDOS is expected to issue official implementation guidance and filing procedures by December 2025.
- Action Steps:
 - Stay informed. Interpretations are evolving quickly.
 - Review ownership structures now to determine if your LLC may fall under the reporting requirements.
 - Prepare to file an attestation of exemption if applicable.

Golenbock will continue to monitor developments closely and provide updates as soon as the NYDOS issues formal rules or the Governor acts on pending legislation.

Contacts:

Daniel B. Axman
daxman@golenbock.com
(212) 907-7379

Elizabeth Man-Wai Li
eli@golenbock.com
(212) 907-7357

Barry A. Cassell
bcassell@golenbock.com
(212) 907-7337

Alison Wong
awong@golenbock.com
(212) 907-7300

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By *Daniel B. Axman, Trusts & Estates Partner*

Beginning January 1, 2026, New York will require many limited liability companies to disclose their beneficial ownership information under the newly enacted New York LLC Transparency Act (NYLTA).

The Federal government had imposed similar entity reporting requirements with much broader application. However, in March 2025, the U.S. Treasury's Financial Crimes Enforcement Network (FinCEN) issued an interim final rule significantly narrowing the scope of entities required to submit a beneficial ownership information (BOI) report under the federal Corporate Transparency Act (CTA), originally enacted in 2020. Entities formed under state law, such as LLCs and corporations, are no longer required to submit a BOI Report to FinCEN. The revised rule now applies only to entities formed under foreign law that register to do business in the U.S. (formerly known as "foreign reporting companies").

(See: Golenbock Legal Alert: FinCEN Issues Interim Final Rule: U.S. Companies Exempt from BOI Reporting, Foreign Entities Still Required to File)

In general, the NYLTA applies to all LLCs formed under New York law as well as foreign LLCs registered to do business in the state. If an LLC qualifies for an exemption, no BOI report is required to be filed, although the LLC must still file an attestation of exemption with the NY Department of State. LLCs may qualify for one of 23 exemptions (which mirrors the CTA) – those exemptions can be found [here](#). In practice, this means that virtually every LLC doing business in New York will need to engage with the new reporting system in some form.

For LLCs formed before January 1, 2026, the deadline to file an initial beneficial ownership report is January 1, 2027. LLCs existing on or after January 1, 2026, must file within 30 days of formation or registration. Once filed, reports must be updated annually to confirm or amend ownership information.

The reporting obligation focuses on identifying "beneficial owners." A beneficial owner includes any individual who directly or indirectly exercises substantial control over an LLC, or who owns or controls at least 25% of its ownership interests. Importantly, the reports will be housed in a secure state database and will not be accessible to the public. That said, the law carries meaningful penalties for failure to comply – non-compliant LLCs may be placed in delinquent status, suspended, or even dissolved, and the New York Attorney General may impose fines of up to \$500 per day for late filings.

Despite the looming January 1, 2026, implementation date, significant uncertainty persists around the NYLTA.

- In June of 2025, the New York legislature passed Senate Bill 8432 to address definitional gaps and harmonize state law with recent federal changes, but Governor Kathy Hochul has yet to sign the bill. Until that happens, we cannot say with certainty what the statute will require on day one. Absent Governor Hochul signing S.8432, the NYLTA relies to a significant degree on the CTA. Until the Governor signs S.8432 into law, it is not unreasonable to conclude that all domestic LLCs are exempt from the NYLTA reporting due to the CTA interim final rule's reporting exemption for all domestic entities.
- Even if the Governor signs S.8432 into law, the amended NYLTA would still rely on the CTA for the definitions of the terms "Applicant," "Substantial Control," and "Ownership Interest". As set forth above, that reliance remains problematic because of the CTA interim final rule's reporting exemption, making it unclear how those definitions will apply in a purely state context.
- Compounding the uncertainty, the New York Department of State (NY DOS), which is responsible for implementing the NYLTA, has yet to create a filing portal or publish guidance, such as informational pamphlets. Reports could be due as early as January 2026, yet we have no information regarding filing mechanics.

Notwithstanding the existing uncertainty, the deadlines remain unchanged. For business owners, the passage of the NYLTA represents more than a simple administrative formality. Companies should begin reviewing ownership structures now to determine whether they are subject to the law or can claim an exemption. Even exempt entities must be prepared to make an attestation. Moreover, persons forming new LLCs in the coming years should weigh whether New York remains the most advantageous jurisdiction given these new requirements. Although beneficial ownership information will not be made public, companies should anticipate questions and concerns from stakeholders about what data is collected and how it will be safeguarded. Transparent internal communication and

coordination with counsel will be important in managing those issues. Our team will stay on top of the passage of S.8432 and the release of guidance from the NY DOS and issue updates accordingly.

Contacts:

Daniel B. Axman
daxman@golenbock.com
(212) 907-7379

Steven G. Chill
schill@golenbock.com
(212) 907-7350

Barry A. Cassell
bcassell@golenbock.com
(212) 907-7337

Elizabeth Man-Wai Li
eli@golenbock.com
(212) 907-7357

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California will become the first state to require certain restaurants to disclose the presence of nine major allergens in their menu items with specificity. We should expect to see similar efforts across other jurisdictions with varying levels of specificity and dramatically differing disclosure formats.

The California legislation mandating this, Senate Bill 68 (“SB 68”), known as the Allergen Disclosure for Dining Experiences Act (the “ADDE”), was introduced in January 2025 and signed into law on October 13, 2025.

Effective as of July 1, 2026, covered California restaurants will be required to provide written disclosure of nine major food allergens (*i.e.*, milk, eggs, fish, shellfish, tree nuts, peanuts, wheat, soybeans, and sesame) either:

- On a physical menu (next to or immediately below each item), OR
- On a digital menu (which may include a QR code), so long as there is an alternative for customers who cannot access the digital menu. The alternative may include an allergen chart or grid.

As initially proposed, the ADDE would have required compliance by all California restaurants. However, the final law

only applies to restaurants covered by certain federal menu labelling laws, namely, any restaurant or similar retail food establishment located in California that “is part of a chain with 20 or more locations doing business under the same name (regardless of the type of ownership of the locations) and offering for sale substantially the same menu items”, regardless of where the other 20 locations are located.

The ADDE states that enforcement will be left to local enforcement agencies, who will perform “visual verification” or “other reasonable methods of verification” that the establishment’s menus comply with the new requirements. Although compliance strategies will ultimately need to be tailored to satisfy verification methods, restaurants should bear in mind that the ADDE will require “a new level of coordination between culinary, procurement, marketing, and operations teams..., since vendor specifications and product reformulations now have downstream disclosure implications”, according to Dylan McDonnell, the CEO of Foodini, which offers AI-powered solutions to growing allergen disclosure needs. McDonnell anticipates that the ADDE will “push restaurants to operate with the same rigor around ingredient data they already apply to food safety.”

If you think your establishment will be covered by the ADDE, or if you have any compliance questions, please contact Andrew Peskoe or Megan Rockwell or the Golenbock attorney with whom you regularly work. In all events, we should anticipate that these requirements will become common across many jurisdictions in the near future.

Andrew C. Peskoe: 212.907.7377

Email: apeskoe@golenbock.com

Megan E. Rockwell: 212.907.7321

Email: mrockwell@golenbock.com

Zachary Palomino: 212.907.7323

Email: zpalomino@golenbock.com

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Overview

Over the past few years, entities have come under scrutiny as lawmakers push for greater transparency in ownership and control through new reporting procedures. And while the federal reporting requirements have been significantly scaled back, New York appears determined to forge ahead, albeit only as it applies to limited liability companies (LLCs).

In this Golenbock Legal Alert, we provide an overview of how New York's reporting rules apply to trusts and estates.

Federal Update: The Corporate Transparency Act (CTA)

In March 2025, the U.S. Treasury’s Financial Crimes Enforcement Network (FinCEN) issued an interim final rule significantly narrowing the scope of entities required to submit a beneficial ownership information (BOI) report under the federal Corporate Transparency Act (CTA), originally enacted in 2020.

Entities formed under state law, such as LLCs and corporations, are no longer required to submit a BOI Report to FinCEN. The revised rule now applies only to entities formed under foreign law that register to do business in the U.S. (formerly known as “foreign reporting companies”).

(See: Golenbock Legal Alert: “FinCEN Issues Interim Final Rule: U.S. Companies Exempt from BOI Reporting, Foreign Entities Still Required to File”)

New York LLC Transparency Act (NYLTA)

While the future of federal BOI reporting remains uncertain due to ongoing legal challenges, New York has forged ahead with its own transparency mandate, the New York LLC Transparency Act (NYLTA), modeled in part on the federal CTA but with key distinctions. To read Golenbock’s alert on the NYLTA, [click here](#).

NYLTA Effective Date:

January 1, 2026

LLCs Subject to the NYLTA:

1. LLCs formed under New York law
2. LLCs authorized to do business in New York

Exempt LLCs: LLCs that are formed under New York law or authorized to do business in New York may qualify for one of 23 exemptions, which can be found here: https://www.fincen.gov/boi-faqs#C_2. If an exemption applies, the LLC is not required to file a BOI report, but it must still file an attestation of exemption with the NY Department of State.

We will refer to an LLC that must file a BOI Report as a "*Reporting LLC*".

Initial BOI Report Filing Deadlines:

1. Reporting LLCs formed before January 1, 2026: January 1, 2027
2. Reporting LLCs formed on or after January 1, 2026: 30 days from date of formation or registration to do business in New York

Annual Filing:

All Reporting LLCs are required to file an annual statement to confirm or update the BOI report.

Confidentiality:

The BOI reports will be kept on a secure database and will not be accessible to the public.

General BOI Reporting Requirements:

A BOI report must be filed by a “beneficial owner”, which includes: (1) any individual who, directly or indirectly, exercises substantial control over the Reporting LLC; and (2) any individual who owns or controls at least 25% of the ownership interests of the Reporting LLC.

BOI Reporting Requirements for Trusts:

The analysis becomes murkier when a trust is involved. First it must be determined whether the trust (1) directly or indirectly exercises substantial control over the LLC or (2) owns or controls at least 25% of the ownership interests of the LLC

If the answer is “yes”, then all of the following individuals must be included in the BOI Report as beneficial owners:

1. A trustee or other individual with authority to dispose of trust assets
 - a. Key Point: If the trust agreement grants powers to a trust protector, investment advisor, or distribution advisor, the trust agreement must be reviewed carefully to determine whether these individuals possess a right to dispose of trust assets.

2. A beneficiary who is the sole permissible recipient of trust income or principal

3. A beneficiary who has the right to demand a distribution of or withdraw substantially all of the trust assets.
 - a. Key Point: Many trusts, especially those holding a life insurance policy, include “Crummey” withdrawal rights (these are temporary beneficiary withdrawal rights included in the trust agreement so that the grantor’s gift to the trust can qualify for the annual exclusion from gift tax – currently \$19,000). An analysis must be undertaken to determine whether the beneficiary’s Crummey withdrawal rights entitle the beneficiary to withdraw substantially all of the trust assets.
 - b. Key Point: If a beneficiary is given a lifetime power of appointment, which is the power to direct how the trust assets are distributed, then the beneficiary would be considered a beneficial owner. This type of power is sometimes given to a spouse who is the beneficiary of a Spousal Lifetime Access Trust (SLAT).

4. A grantor/settlor (generally the person funding the trust) who has the right to revoke the trust or withdraw assets from the trust.
 - a. Key Point: Many trusts are established as “grantor trusts”. A grantor trust is disregarded for income tax purposes – therefore, the trust’s income is reported on the grantor’s income tax return. Many clients favor these trusts because the grantor’s annual payment of the trust’s income tax is the equivalent of the grantor making a tax-free gift to the trust. For the trust to be considered a grantor trust, the trust agreement often gives the grantor the right to substitute assets or to borrow from the trust. In such a case, the grantor should be considered a beneficial owner.
 - b. Key Point: Many clients now favor revocable trusts instead of last wills – one reason being that a revocable trust can avoid probate court proceedings after the grantor’s death. Since a grantor can revoke a revocable trust, the grantor is considered the beneficial owner.

Agents acting under a Power of Attorney are not considered Beneficial Owners.

BOI Reporting Requirements for Estates:

A Reporting LLC must report a beneficial ownership change within 30 days of when an estate is settled. Practically speaking, once an executor or personal representative transfers a Reporting LLC to the estate beneficiaries, the Reporting LLC should immediately report the beneficial ownership change.

Minor Beneficiaries:

If a beneficiary is a minor, then the minor's parent or legal guardian is considered the beneficial owner.

Penalties:

Unlike the CTA, if a beneficial owner fails to file a BOI report, he or she will not be subject to criminal penalties. Failure to comply with the reporting requirements can, however, result in a past due delinquent status, suspension from conducting business in the state, or dissolution of the LLC. The NY attorney general is granted broad discretion, including the ability to fine a beneficial owner up to \$500 per day that the LLC is past due or delinquent with its filings.

Practical Guidance for Fiduciaries:

Whether you are a trustee, executor, or another person with powers granted in a trust agreement or last will, such as a trust protector or investment advisor, it is important that you understand how the NYLTA applies to you.

1. Work with your lawyer to determine whether the trust or estate you are involved with owns a Reporting LLC. This analysis includes determining whether an exemption to reporting applies.
2. Work with your lawyer to review trust agreements and last wills in order to identify the persons who are considered beneficial owners.
3. Ensure the trust or estate lawyer and accountant are aware of the reporting deadlines.

4. If administering a trust or estate with multiple LLCs, consider centralizing compliance through a designated agent.

5. Keep records of all BOI filings and document your decision-making process and reliance on legal counsel.

Practical Guidance for Estate Planners:

1. **Audit Existing Structures.** Review all trust and estate plans that hold interests in LLC formed in New York or qualified to do business in New York.

2. **Client Outreach.** Contact clients to inform them of filing deadlines and set calendar reminders for annual check-ins. Include BOI reporting on client in-take forms, checklists, and memos.

3. **Consider New Trust Language.** Consider adding language to trust agreements, last wills, and LLC operating agreements that (1) authorizes fiduciaries to collect and report information required under the NYLTA and (2) indemnifies fiduciaries who may face penalties for non-compliance.

4. **Plan for Privacy Concerns.** While the information reported may not be publicly accessible, clients may still be wary. Help them understand the information collected, who can access it, and how it is protected.

5. **Forming New LLCs.** Before forming a new LLC in New York, determine whether it would be subject to BOI reporting, and if yes, determine whether it makes sense for the client to form the LLC in another jurisdiction, such as Delaware, and communicate any additional costs or reporting requirements to the client.

Key Takeaway

While federal reporting obligations under the CTA have been significantly scaled back, New York's LLC reporting regime is ramping up. Estate planners, accountants, trustees, executors, and others who have certain trust powers should treat this as a critical compliance moment, not just a regulatory formality. Proactive steps now can help avoid liability later.

Contacts

If you have questions about the application of the NYLTA, please contact a member of Golenbock's Trusts & Estates team.

Daniel B. Axman
daxman@golenbock.com
(212) 907-7379

Donald Hamburg
dhamburg@golenbock.com
(212) 907-7380

Steven G. Chill
schill@golenbock.com
(212) 907-7350

Hailey Dobin Reichel
hdobinreichel@golenbock.com
(212) 907-7312

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When a decision is made to sell a business, many different factors and considerations play a role. For those businesses that operate from leased space, whether it be office space, restaurant space or any other form of commercial or retail space, the terms and conditions of the underlying lease will factor into the sales equation since the lease might be transferred in connection with the underlying sale. This will result in the buyer "stepping into the shoes" of the seller and becoming the tenant under the lease. Not only are the business terms, such as rent and the remaining duration of the lease important, but both seller and buyer will also need to consider whether the landlord has any approval rights over the sales transaction.

Leases generally provide that an assignment of the lease by the tenant is a transaction that requires the landlord's approval. A business is generally sold through either a sale of the tenant's equity or underlying ownership interests in the tenant entity ("Equity Transfer") or through the sale of all or substantially all of the tenant's assets ("Asset Transfer"). An Equity Transfer arguably does not require the landlord's approval since no assignment of the lease occurred as the tenant entity does not change. However, an Asset Transfer would require landlord's approval since the tenant entity did in fact change as part of the transaction. However, to prevent circumvention of the assignment provisions and to ensure that both Equity Transfers and Asset Transfers constitute an "assignment" of the lease,

sophisticated landlords generally will insist that their leases include language that those types of transactions (as well as mergers, reorganizations, consolidation and other types of transfers) are deemed assignments for purposes of the lease and thus require landlord's approval.

A landlord having approval rights over a sale of a business potentially creates competing interests. From a tenant's perspective, a tenant does not want a landlord to prevent the sale by withholding their consent or by using their consent rights as leverage to obtain greater benefits than conferred by the lease (e.g., the landlord will approve the transaction provided the buyer agrees to pay increased rent or additional consideration), while, from a landlord's point of view, it wants to ensure that the buyer / new tenant is reputable, experienced and has sufficient financial resources to succeed.

So how should those competing interests be resolved so the concerns of each party are fairly addressed? The answer lies in incorporating qualifications and conditions governing the sale of a business as it relates to landlord's approval rights under the lease. If the sale involves a "one off sale", meaning that only a single lease and leased location are the subject of the sale, as opposed to multiple locations, unless tenant is able to negotiate the most favorable scenario (from tenant's position) that such transaction does not require landlord's consent, the lease should provide that landlord will *not unreasonably withhold, condition or delay* its consent so long as the buyer satisfies certain conditions, the most important being that buyer has a sufficient net worth / liquidity and experience in the business being sold. The sufficient net worth / liquidity requirement that needs to be satisfied is usually (i) a stipulated dollar figure (e.g., buyer has to have a net worth greater than X dollars), (ii) by buyer having a net worth greater than the seller, or (iii) by buyer having a net worth sufficient to satisfy the remaining financial obligations under the lease. With respect to the requirement of experience, the lease might provide that the buyer must have a certain number of years of experience in operating the business being sold and must operate a certain number of other locations with such business. Those conditions will serve to address landlord's concern that the buyer is not a "downgrade" from its current tenant while contemporaneously ensuring the seller that the landlord will not withhold its consent to transaction arbitrarily and in bad faith.

If the sale involves multiple locations, then the same conditions previously mentioned should need to be satisfied – however, unlike the "one off sale", landlord's approval to the transaction should not be required if the above conditions are fulfilled. This will ensure the seller that the landlord cannot jeopardize a larger multi-location sales transaction. From a landlord's perspective, the new tenancy may be more beneficial since landlord will likely receive a larger tenant with more resources, financial, experience and otherwise, than the seller.

In addition to the foregoing, there are some additional lease provisions that should be considered in connection with the sale of a business:

- i. With respect to an Equity Transfer, it should be made clear that a transfer of ownership interest in the tenant only triggers the assignment provisions (and thus the requirement to obtain landlord's consent) if more than a controlling interest in the tenant is transferred (e.g., more than 50% of the stock or other equity interests) or if, as a result of such transfer, the person that has the authority to run the "day to day" business of the tenant changes. The tenant should be able to freely transfer a non-controlling share of ownership interests without landlord's approval to raise capital and for other purposes. Such a transaction should not be objectionable to landlord as long as the person(s) primarily responsible for operating the business does not change.

- ii. Leases often include language where a landlord shares in the net profit received by a tenant in connection with an assignment of the lease. For a seller, this is objectionable since why should landlord benefit from all the hard work that the seller undertook to grow its business and why should the landlord profit therefrom? However, the landlord views the leasehold interest that is being transferred as being valuable and as a key component of the sale for which they should receive some profit, often justified due to the buyer also receiving a lower rental amount by assuming an existing lease as opposed to entering into a new lease where the rent would otherwise have been the higher fair market value rent. Which equitable solution can address the diverging positions? A profit share should not apply in a context of a sale where the tenant has multiple locations since the real estate asset being sold/transferred does not solely consist of this specific leasehold interest. A seller might also make the reasonable argument that it should also not apply in a "one of sale" as well, especially if the use of the premises is not changing. However, if the landlord insists on a profit share in such circumstances, then a fair and equitable compromise is that the applicable percentage of net profits payable to the landlord is calculated on the amounts payable and allocable to the value of the leasehold estate being transferred, not the business as a whole. A landlord should not share in other aspects of the deal, such as the value of seller's good will or inventory.

- iii. If a guaranty was signed in connection with the lease, it would be prudent for a tenant to request language in the lease that, upon an assignment of the lease, the guarantor is released from its obligations under the guaranty if a substitute guarantor executes a substitute guaranty. Otherwise, the guarantor might remain liable for the actions of the buyer under the lease following the sale since a guarantor is generally not

released upon an assignment of the lease.

Contacts

Florian Ellison
fellison@golenbock.com
(212) 907-7339

Steven R. Hochberg
shochberg@golenbock.com
(212) 907-7343

By Daniel B. Axman

We are writing to inform you of a change in the federal estate tax law that may have important implications for your estate plan. As many of you know, the federal gift and estate tax exemption and federal generation-skipping transfer (GST) tax exemption currently sits at \$13.99 million per individual (\$27.98 million per married couple). Prior to recent legislation, these exemptions were set to automatically decrease to approximately \$7 million per person (plus an inflation adjustment) on January 1, 2026, due to the sunset provision under existing law.

However, on July 4, 2025, the President signed into law a bill that permanently increases these exemptions to \$15 million per person (or \$30 million per married couple), plus an inflation adjustment, effective as of January 1, 2026.

The federal gift, estate, and GST tax rates remain unchanged, with a top marginal rate of 40%. While prior legislative proposals targeted popular planning tools, such as grantor trusts and valuation discounts for closely held businesses, none of those changes were included in the final bill.

Planning Considerations

Although the urgency to use exemption before year-end has eased, we continue to recommend that high-net-worth individuals and families evaluate:

- Making additional lifetime gifts using the expanded exemption
- Opportunities to remove future appreciation from your taxable estate
- Succession planning for family businesses
- Reviewing existing trusts and estate plans for alignment with current goals
- Running updated estate tax projections in light of the new exemption levels

While the increase in the exemptions is described as “permanent,” no law is truly immune to future legislative changes. As such, we recommend that high-net-worth individuals and families continue to take a proactive approach to their estate planning.

Connecticut Residents

Tied to the federal exemption, Connecticut’s gift and estate tax exemption will likewise increase to \$15 million per person on January 1, 2026. Connecticut residents should review the planning considerations noted above.

New York Residents

While the federal gift & estate tax exemption will increase, the New York estate tax exemption remains unchanged. The NY exemption is currently \$7.16 million per person, indexed annually for inflation.

- For New York residents with estates approaching or exceeding the NY exemption, we encourage you to read our earlier client alert linked [here](#).
- For those with estates above the federal threshold, we recommend you review your estate planning to ensure it addresses both federal and state-specific tax exposure.

We would be happy to review your current plan and discuss whether updates or new strategies are appropriate in light of this legislation.

If you have any questions or would like to schedule a consultation, please do not hesitate to contact us.

Contacts:

Daniel B. Axman | daxman@golenbock.com | (212) 907-7379

Donald A. Hamburg | dhamburg@golenbock.com | (212) 907-7380

Steven G. Chill | schill@golenbock.com | (212) 907-735

Hailey Dobin Reichel | hdobinreichel@golenbock.com | (212) 907-7312

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We are all witnessing the proliferation of AI-generated content, not only in written content and search results, but in audio and video content. Advertisers and other content creators may perceive benefits in the new technology: the ability to create content in a fraction of the time, without paid actors, sets, and expensive production equipment. But there is also pushback against threats the new technology poses to the public, such as through “deepfakes”

- using AI-generated audio or video to mimic a real person’s likeness or voice to make it appear they said or did something they never did. At the federal level, a bill was recently reintroduced after the initial version stalled - the No FAKES Act - that would prohibit the unauthorized use of an individual’s voice or likeness in AI-generated deepfakes.

New York State is now proposing action, with the legislature advancing two new bills on June 17, 2025, with potential impact on advertisers and other content creators. If signed by the Governor, the bills would: (i) require the disclosure of an advertisement’s use of AI-generated performers; and (ii) require consent to use digital renderings of deceased performers in commercial works.

Synthetic Performer Disclosure Requirement (Bill No. A8887B)

The first bill relating to advertising disclosure would amend section 396-b of the General Business Law. As the bill’s justification states: “This legislation will require synthetic performers used for a commercial purpose to be clearly labeled as such so that the average user will be able to easily discern, at the point of viewing, that the image they are looking at is not real, but a synthetic performer.” Specifically, the bill would apply to any business that produces an advertisement for a commercial purpose.

The bill broadly applies to “any medium or media.” It would require the advertiser to “conspicuously disclose in such advertisement that a synthetic performer is in such advertisement.” The bill defines “synthetic performer” as: a digitally created asset created, reproduced, or modified by computer, using generative artificial intelligence or a software algorithm, that is intended to create the impression that the asset is engaging in audiovisual and/or visual performance of a human performer who is not recognizable as any identifiable natural performer.

As such, the bill, on its face, would require disclosure not only in the context of deepfakes where the likeness of a real person is mimicked, but also the use of entirely fictitious AI-generated “human performers.” Violations of the bill would carry penalties of a \$1,000 fine for the first offense and \$5,000 for any subsequent offenses. The bill would not apply to audio-only advertisements (e.g., radio spots); there must be a visual component. There is also an exception for advertisements for “expressive works,” defined to include such things as movies, television programs, and video games, provided that the use of the synthetic performer in the advertisement is “consistent with its use in the expressive work.” In contrast, if a business uses a synthetic performer to advertise its goods or services, this exception would not apply. The bill also carves out advertising mediums, such as television networks or streaming services, from liability. In other words, the penalties for violations would fall on the business that created the advertisement, not on the medium that displayed the advertisement.

Deceased Personality Digital Replica Consent Requirement (Bill No. A8882)

The second bill would amend section 50-f of the Civil Rights Law to prohibit the use of a “digital replica” of a deceased personality’s voice or likeness in a commercial work without prior consent from the rights holder. This bill follows New York’s passage in 2020 of a statutory requirement of consent for the use of the name, image, or likeness of a deceased personality for commercial purposes. As the current bill’s justification states: “Now, only 5 years later, anyone with a smartphone can produce and disseminate digital replicas. Given the unparalleled dangers presented by ubiquitous digital cloning, New York must strengthen its right of publicity laws to protect deceased persons from being exploited.”

The bill would create a private right of action and the recovery of damages against: “Any person who uses a deceased performer’s digital replica in an audiovisual work, sound recording, or for the live performance of a musical work” without consent. A “digital replica” is defined as: a newly created, computer-generated, highly realistic electronic representation that is readily identifiable as the voice or visual likeness of an individual that is embodied in a sound recording, image, audiovisual work, including an audiovisual work that does not have

accompanying sounds, or transmission in which: (i) the actual individual did not actually perform or appear; or (ii) the actual individual did perform or appear, but the fundamental character of the performance or appearance has been materially altered. The bill contains certain exceptions such as for parody or news content, but provides that if there is an advertising component, liability may nevertheless be imposed where “the use of the deceased personality’s name, voice, signature, photograph, or likeness was so directly connected with the commercial sponsorship or with the paid advertising or product placement as to constitute a use for which consent is required.”

Unlike the disclosure bill discussed above, liability under the digital replica bill can be imposed on mediums that display the work, but only where the medium receives a notice of violation and does not remove the work containing the digital replica “as soon as is technically and practically feasible.”

* * *

New York state and local lawmakers clearly have a focus on AI and are attempting to ensure that laws keep up with the rapidly-expanding technology and protect the public against potential misuses of the technology. As we previously reported, New York City passed a law that prohibits employers from using AI tools to make hiring or other employment decisions unless the employer complies with certain requirements to prevent discriminatory impact ([AI Hiring Poses Discrimination Risk; A Cautionary Tale](#)). The current bills discussed here should be monitored by advertisers and other content creators to ensure that, in seeking to utilize new technologies to create attention-grabbing content at a potentially faster pace and lower cost, they do not fall into a trap of being accused of consumer deception or misappropriation of rights.

We will continue to monitor developments regarding these bills and the AI landscape. For further assistance please contact your primary Golenbock attorney or **Matthew C. Daly**, (212) 907-7329, mdaly@golenbock.com.

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On March 21, 2025, FinCEN issued an interim final rule which implements sweeping changes to the reporting obligations under the Corporate Transparency Act (CTA). Under the interim final rule, FinCEN has revised the definition of “reporting company” to include only entities formed under the laws of a foreign country and registered to do business in the U.S. through a filing with a secretary of state or similar office—formerly referred to as “foreign reporting companies.”

Crucially, the rule removes the requirement for U.S. companies and U.S. persons to report beneficial ownership information (BOI) under the CTA. All entities created in the United States, including those previously classified as “domestic reporting companies,” and their beneficial owners, are now exempt from BOI reporting obligations.

These changes build on the Treasury Department’s earlier announcement that it would not pursue enforcement against U.S. entities under the existing deadlines—and go further by permanently exempting them from BOI reporting obligations under the revised rule.

Additionally, foreign entities that qualify as “reporting companies” under the new definition must still comply with FinCEN’s BOI reporting requirements, but with two key caveats:

- They will not be required to report any U.S. persons as beneficial owners; and
- U.S. persons will not be required to report BOI in connection with any such foreign entity.

New Reporting Deadlines for Foreign Reporting Companies:

- Foreign entities registered to do business in the U.S. before March 21, 2025, must file BOI reports no later than Sunday, April 20, 2025; and
- Foreign entities registered on or after March 21, 2025, must file their initial BOI report within 30 calendar days of receiving notice that their registration is effective.

FinCEN is accepting public comments on the interim final rule and intends to finalize the rule this year.

For Golenbock’s previous alerts on CTA developments, please refer to them here:

Corporate Transparency Act Update: BOI Reporting Deadline Extended (February 25, 2025)

U.S. Supreme Court Stays Preliminary Injunction Against Enforcement of CTA: FinCEN Determines CTA Still Currently Not Enforceable (January 27, 2025)

Corporate Transparency Act – Fifth Circuit Reinstates Nationwide Ban (December 27, 2024)

Corporate Transparency Act Revived: Reporting Companies Have Until January 13, 2025, to Submit Initial BOI Reports (December 24, 2024)

Corporate Transparency Act (CTA) Blocked by Federal Court (December 5, 2024)

Corporate Transparency Act: Rules Requiring Privately Held Companies to Report Beneficial Ownership to the U.S. Government (May 10, 2024)

If you have any questions or need further information, please reach out to your contact at Golenbock or one of the following individuals on the Golenbock CTA FinCEN Compliance Committee:

Contacts:

Barry A. Cassell
bcassell@golenbock.com
(212) 907-7337

Jacob L. Chase
jchase@golenbock.com
(212) 907-7362

Sarah E. Kaehler
skaehler@golenbock.com
(212) 907-5680

Maureen R. Monaghan
mmonaghan@golenbock.com
(212) 907-7335

May Shim
mshim@golenbock.com
(212) 622-7161

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By Daniel Axman

For people seeking greater efficiency and flexibility in their estate planning, a revocable trust—also known as a living trust—can be a valuable tool. When structured and funded properly, a revocable trust allows for the seamless transfer of a person’s assets following his or her death, often without the need for court intervention.

Wills vs. Revocable Trusts: Key Distinctions

Both wills and revocable trusts play an important role in estate planning. A will governs the disposition of probate assets—generally, assets titled solely in a person’s name that do not have a beneficiary designation. Examples of non-probate assets that would not be disposed of by a will include jointly owned property, retirement accounts, life insurance policies, and assets held in trust.

A revocable trust, by contrast, can hold title to probate assets during a person’s lifetime. Upon death, those assets pass directly to the beneficiaries named in the trust agreement, potentially without the need for court-supervised probate proceedings.

Importantly, even when using a revocable trust, a “pour-over” will remains essential to capture any probate assets which were not transferred to the trust during the person’s lifetime. These assets would still pass through probate before being distributed to the trust and then to the beneficiaries named in the trust.

Why Consider a Revocable Trust?

While wills remain a common and appropriate planning tool in many instances, revocable trusts offer several distinct advantages that may make them the preferred choice in certain situations:

- **Streamlined Administration**
Generally, the person who establishes the trust is the sole trustee during his or her lifetime, making all decisions relating to the trust, its investments and distributions. Assets owned by a revocable trust can be distributed more efficiently after death, often without court oversight. In many cases, this results in a faster, more private, and less burdensome administration process for family members. This is especially important in states like Florida which require the filing of a detailed inventory as part of the probate process.
- **Immediate Access to Funds**
Holding assets in trust may help avoid delays in accessing funds for expenses or ongoing support. In certain scenarios—such as where most assets are in one spouse’s name—this immediate access can be particularly important. Investment assets held in a trust can be sold or distributed to trust beneficiaries shortly after a person’s death without the delay of a probate proceeding. This can help prevent the investment portfolio from being exposed to market volatility during the probate process.
- **Facilitated Asset Management During Incapacity**
A properly drafted revocable trust acts similarly to a power of attorney, enabling a successor trustee to step in and manage trust assets in the event of a person’s incapacity, thereby avoiding the need for a court-appointed guardian or conservator. Moreover, financial institutions typically favor working with the trustee of a trust over an agent acting under a statutory power of attorney.
- **Privacy**

Unlike a will, which becomes a matter of public record when probated, a revocable trust generally remains private – even if unfunded at the time of death. And if fully funded, the names and addresses of trust beneficiaries will not be made public, which could be especially important if public figures are involved.

- **Future Flexibility**

Revocable trusts are inherently flexible. They can be amended or revoked during the person’s lifetime, allowing the person to adapt his or her estate plan as circumstances evolve.

- **Reduced Future Court Involvement**

In New York, the appointment of trustees of testamentary trusts (i.e., trusts created under a will) requires court approval, which can delay the orderly succession of trustees if a trustee dies, resigns or becomes incapacitated, and a new trustee is required to be appointed by the court. In contrast, court approval is not required for the appointment of trustees of a trust created under a revocable trust agreement.

Common Considerations and Limitations

- **Asset Titling Is Key**

To realize the full benefits of a revocable trust, the person’s assets must be properly retitled in the name of the trust or designate the trust as beneficiary. For example, the person can either retitle a bank account in the name of the revocable trust or ask the financial institution for a beneficiary form to designate the revocable trust as beneficiary. The banks commonly refer to these forms as POD (Pass-on-Death) or TOD (Take-on-Death) forms. If some assets are not transferred during life, probate may still be required – but the estate can still benefit from the trust’s structure and privacy.

- **Certain Assets Should Not Be Transferred**

Retirement accounts and life insurance policies should remain outside the trust, as they pass via beneficiary designations. However, coordinating those designations with the terms of the revocable trust is crucial to ensure alignment with the overall estate plan.

- **Jointly Owned Assets and Real Property**

Whether jointly owned assets – such as a residence held by spouses – should be split between two separate revocable trusts requires case-by-case analysis. For example, assets held as tenants-by-the-entirety may offer unique creditor protections.

- Cooperative Apartments
Owners of co-op apartments should confirm whether the building allows transfers to trusts, as some buildings impose restrictions or significant fees that may make such transfers impractical.

What About Irrevocable Trusts?

Irrevocable trusts serve different planning purposes, such as asset protection and tax planning, and generally cannot be amended or revoked. A revocable trust, in contrast, is designed for flexibility and administrative ease—not creditor protection or tax mitigation. To be clear, revocable trusts do not provide any saving in estate tax, gift tax, or income tax.

Administrative Burden: Minimal

Revocable trusts are typically straightforward to manage during the person's life. The person who establishes the revocable trust retains full control, there is no need for a separate tax identification number, and no additional tax filings are required.

Conclusion

Revocable trusts, when used strategically and in coordination with a pour-over will, can offer meaningful advantages in privacy, administration, and continuity of asset management. While a standard will may remain appropriate in many cases, people seeking a more flexible and efficient estate planning structure should consider

whether a revocable trust is a suitable solution.

Contacts

If you have questions about whether a trust is appropriate for your situation, please contact a member of Golenbock's Trusts & Estates team.

Daniel Axman, Partner
Trust & Estates, Tax
daxman@golenbock.com
(212) 907-7379

Steven Chill, Partner
Trust & Estates
schill@golenbock.com
(212) 907-7350

Donald Hamburg, Partner
Trust & Estates
dhamburg@golenbock.com
(212) 907-7380

Hailey Dobin Reichel
Law Clerk
**Pending admission to the bar*

Golenbock Eiseman Assor Bell & Peskoe LLP

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