The 39th Annual TEI-SJSU High Tech Tax Institute Conference on
Nov 6 – 7, 2023

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Will Tax Geeks Be Replaced with AI?

By: Tom He, CPA, MST Student

Artificial intelligence is a hot topic nowadays. Emerging disruptive technology such as Generative AI, Machine learning and ChatGPT are catching the headlines. Different people have different thoughts about AI. Some consider it as a powerful tool to improve human work; while others are afraid that it will one day replace humans completely. For serious tax professionals, we are also curious about it. How is AI going to impact my day-to-day work? What can I do to stay competitive and keep my job? The speakers, Marc Borella, Program manager at IRS; Justin Femmer, Partner at PwC; Howard Schneck, President at Silicon Valley TEI Chapter and Director, Corporate Tax & Senior Tax Counsel, M&A, Varian Medical Systems; and Travis Thompson, Associate at Sideman & Bancroft LLP, participated in the 39th Annual TEI/SJSU High Tech Tax Institute on November 6th, 2023, to discuss AI and these exciting questions.

Recent AI developments

Mr. Thompson started the conversation by introducing his definition of AI. He mentioned that AI can be simply defined as “Machines acting in ways that seem intelligent”. Mr. Thompson mentioned that there are two types of AI. The first one is called Narrow AI and the second one is called General AI. Narrow AI is a machine or system that is designed to address a specific problem; while General AI is a machine or system that can solve various problems like human. As for our current technology capabilities, we are at the stage of Narrow AI. Although it is called “narrow”, Narrow AI is doing things that people couldn’t imagine before. For example, it gets a bar exam score of 298 (90%), SAT score of 1410 (>90%), GRE score of 99%. Because of its huge potential market value, a lot of tech companies are investing billions of dollars in AI developments. For example, Microsoft invested $10B in OpenAI; Google has released Bard for consumers; and Apple CEO announced $3.12 billion spent this year on R&D.

AI use cases on the tax field

Mr. Borella is a program manager at IRS. At the event, he shared some use cases on how AI and technology is helping IRS tax agents on their day-to-day work. One of the use cases Mr Borella shared is the use of large corporate compliance (LCC) and large partnership compliance (LPC) programs. These programs use data analytics to identify potential noncompliance of large corporate taxpayers. For tax auditors, there are tons of tax returns to audit every year. However, one tax auditor only has so much time in one tax season. How can he do the best of his job within a short period of time? The LCC and LPC program helps tax auditors with the selection of tax returns to audit by only picking out the ones with high-risk errors. With the help of this technology, the IRS tax auditors are working more efficiently, because they can focus their time and attentions on the higher risk returns.
Mr. Femmer is a partner at PwC. He shared some use cases on how public accounting firms are using AI and technologies. One of the technologies Mr. Femmer mentioned is the M&A due diligence tool. It is a tool that can quickly scan and summarize large volumes of documents. For M&A specialists, they must scan tons of documents for their due diligence work to provide the best advice to their clients. It could take them days and nights to read all the documents. With the help of the M&A due diligence AI or technology tool, they are able to scan all the relevant documentation quickly and focus more on the strategic planning and client consulting part of their work.

What tax professionals should do with AI?

Mr. Thompson mentioned that AI will change the way people work in the tax field. To get the most out of AI, tax professionals should stay up to date on the recent technology developments and try to implement new technologies with their team. At the same time, tax professionals should keep in mind that they should always keep updated and stay compliant with the AI guidelines not only from the government but also from their own organizations. Mr. Femmer mentioned that AI is a tool to assist tax professionals after all; therefore, as a responsible tax specialist, we should be responsible for our own work and keep the best of our professional standards.
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Transparency Reporting Readiness under Corporate Transparency Act

By: Aizhan Toibazarova, MST Student

A roundtable discussion panel convened at the TEI/SJSU High Tech Tax Institute conference on November 6 and 7 covered the intricacies of a new rule for reporting Beneficial Ownership Information (BOI) under the Corporate Transparency Act (CTA) enacted in 2021. The CTA was established to strengthen law enforcement initiatives to protect U.S. national security and the financial system while aligning with global efforts to combat anti-money laundering and countering illicit activities. The panel was led by Jonathan Dixon, Senior Advisor at the Financial Crimes Enforcement Network (FinCEN); Joe Fernandez, Partner at the Seiler LLP; and Elizabeth McMorrow, a seasoned tax attorney serving both domestic and international clients.

The panel commenced with Mr. Dixon covering details on filing requirements, due dates, exempted entities, and repercussions for non-compliance. Starting January 1, 2024, most small businesses structured as corporations, limited liability companies, or entities established through filing with secretary of state or similar office, are mandated to report BOI to FinCEN. Foreign companies registered to do business in the U.S. by filing of a document with a secretary of state or similar office are also subject to reporting. The legislation delineates 23 exempt categories, including publicly traded corporations, tax-exempt entities, financial institutions, brokerage, accounting, and venture firms, all of which already adhere to some form of ownership information reporting standards.

BOI reporting necessitates businesses to identify individuals who directly or indirectly own or control at least 25 percent of the ownership interests in a reporting company or exercises substantial control over it. Furthermore, for businesses formed after January 1, 2024, detailed information about company applicants must be reported. This includes their full legal name, date of birth, address, and identifying number and issuing jurisdiction of acceptable identification document (driver’s license or passport). Notably, an image of the document must also be submitted in compliance with the reporting obligations.

Mr. Fernandez’s presentation focused on the legal aspects of advising clients on CTA compliance. Unlike income tax returns governed by Title 26 of the Code, CTA falls under Title 31, the Criminal Code. The key concern in BOI reporting is the status of the form as a legal document. This raises questions about potential unauthorized law practice when CPAs and other non-attorney tax practitioners guide clients on BOI filing obligations, deadlines, as well as collecting, storing, and reporting this information.

Mr. Fernandez advised that CPA firms reach out to their malpractice insurance carriers and gain a comprehensive understanding of potential liabilities. Tax practitioners may face fees for breach
of professional conduct either by offering advice that treads the line of legality or deferring filing services endangering clients to non-compliance penalties.

As a prudent alternative, Mr. Fernandez recommended collaboration with law firms that can issue an engagement letter to CPA firms. This arrangement would enable tax practitioners to gather necessary information while mitigating legal risks. Additionally, Mr. Fernandez and Ms. McMorrow underscored the need for implementing a questionnaire and designing a process where clients promptly report any change in ownership or the beneficial owner’s information, given that FinCEN requires updates within 30 days of such changes.

Ms. McMorrow, who operates her own practice in Boston, offered guidance to law firms in preparation for reporting. She stressed the importance of CTA internal preparations, including drafting policies, categorizing entities as subject to reporting or exempt, and training relevant employees. CTA external preparations should focus on advising clients, auditing current client data, collecting missing data on ownership and non-U.S. clients established structures, and ensuring timely updates to FinCEN.

Ms. McMorrow also highlighted the importance of proper personnel training. The law requires reporting of a company applicants for businesses established on or after January 1, 2024. Since law firms often aid in the business registration process, their staff may qualify as company applicants subject to FINCEN reporting. Therefore, it is essential to provide personnel training to ensure they understand the implications of being an applicant for the company, considering that not all employees may willingly consent to the reporting of their personal data.

Given the uncertainties surrounding who will take on responsibility of informing, advising and assisting small businesses in filing the required information, there is a significant risk of non-compliance. Mr. Dixon stated that FinCEN is not adopting a punitive stance, recognizing the substantial effort required for successful implementation of this reporting. To support small businesses, FinCEN created a guide along with a comprehensive list of FAQs and videos to explain the reporting mandate in detail (https://www.fincen.gov/boi/small-entity-compliance-guide).

In summary, the discussion panel at the TEJ/SJSU High Tech Institute conference highlighted the significant impact of reporting requirements for Beneficial Ownership Information (BOI) under the Corporate Transparency Act. As the implementation date of January 1, 2024, approaches, effective collaboration between accounting and law firms would assist collection of necessary information and ensure complete and timely reporting.