

Larry's Tax Law

The Drama Surrounding the Corporate Transparency Act Has Now Reached the U.S. Supreme Court

By Larry Brant on 1.23.25 | Posted in Federal Law, Legislation, Tax Laws

I last reported on December 27, 2024, that the Corporate Transparency Act (“CTA”) hit yet [another speed bump](#). The U.S. Court of Appeals for the Fifth Circuit (“Fifth Circuit”) put the CTA on ice as of December 24, 2024, restraining the government from enforcing the new law while it heard the underlying matter in *Texas Top Cop Shop, Inc. et al v. Merrick Garland, Attorney General of the United States et al.*

On December 31, 2024, the government petitioned the U.S. Supreme Court (“Supreme Court”), asking it to remove the stay, allowing the government to enforce the CTA pending the outcome of the Fifth Circuit case and the Supreme Court’s decision should it accept a writ of certiorari and ultimately rule on the constitutionality of the CTA.

U.S. Supreme Court Weighs In

Today, January 23, 2025, Justice Alito (with Justice Gorsuch concurring and Justice Jackson dissenting) delivered the decision of the Supreme Court relating to the injunction. The Court ruled that the injunction is removed pending the disposition of the case before the Fifth Circuit. Further, the removal of the injunction will continue during the pendency of a petition for a writ of certiorari before the Supreme Court.

Justice Alito’s opinion is concise:

“The application for stay presented to JUSTICE ALITO and by him referred to the Court is granted. The December 5, 2024 amended order of the United States District Court for the Eastern District of Texas, case No. 4:24--cv-4 78, is stayed pending the disposition of the appeal in the United States Court of Appeals for the Fifth Circuit and disposition of a petition for a writ of certiorari, if such a writ is timely sought. Should certiorari be denied, this stay shall terminate automatically. In the event certiorari is granted, the stay shall terminate upon the sending down of the judgment of this Court.”

Likewise, Justice Gorsuch’s concurring opinion is brief:

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“I agree with the Court that the government is entitled to a stay of the district court's universal injunction. I would, however, go a step further and, as the government suggests, take this case now to resolve definitively the question whether a district court may issue universal injunctive relief. See *Labrador v. Poe*, 601 U. S. __, __ (2024) (GORSUCH, J., concurring in grant of stay) (slip op., at 4-5, 11- 13); *Department of Homeland Security v. New York*, 589 U. S. __, __ (2020) (GORSUCH, J., concurring in grant of stay) (slip op., at 1-5).”

In dissent, Justice Jackson stated:

“However likely the Government's success on the merits may be, in my view, emergency relief is not appropriate because the applicant has failed to demonstrate sufficient exigency to justify our intervention. See *Labrador v. Poe*, 601 U. S. __, __ (2024) (JACKSON, J., dissenting from grant of stay) (slip op., at 1). I see no need for this Court to step in now for at least two reasons. First, the Fifth Circuit has expedited its consideration of the Government's appeal. Second, the Government deferred implementation on its own accord—setting an enforcement date of nearly four years after Congress enacted the law—despite the fact that the harms it now says warrant our involvement were likely to occur during that period. The Government has provided no indication that injury of a more serious or significant nature would result if the Act's implementation is further delayed while the litigation proceeds in the lower courts. I would therefore deny the application and permit the appellate process to run its course.”

Conclusion

So, as of today, the CTA is no longer on ice. Without an injunction in place, **reporting companies need to comply with the CTA and register as required by the law**. Sitting on the sidelines, adopting a wait and see approach, is no longer an option. Thereafter, we will need to wait for the Fifth Circuit's decision and most likely the ultimate decision of the Supreme Court. Again, the Supreme Court has ruled that the injunction issued by the Fifth Circuit is no longer in place. Consequently, pending the ultimate outcome of the CTA, compliance is required.

Whether the government will extend the deadlines for registration due to the morass of court intervention and the back-and-forth rulings is yet to be seen. Stay tuned! The ride of the CTA is not yet over.

Tags: Corporate Transparency Act (CTA), Fifth Circuit, Reporting Companies, U.S. Supreme Court