



As part of the BC government's commitment to end hidden ownership of companies in British Columbia and to help crack down on illegal activities, all BC private companies are required to create and maintain a Transparency Register listing the significant individuals of the company.

This memo contains a summary of these new requirements **as well as specific instructions on what your company must do to comply with them.**

Who is a Significant Individual?

An individual is considered to be a "significant individual" if any one of the following criteria is met:

1. they (i) directly own, (ii) indirectly own, or (iii) indirectly control:
 - (a) 25% or more of the issued shares of the company; or
 - (b) issued shares of the company that carry 25% or more of the rights to vote at a general meeting; or
2. they have the right or ability, directly or indirectly, to elect, appoint or remove the majority of the directors of the company.

An individual indirectly controls shares of a company if he or she:

1. controls an intermediary registered shareholder, or a chain of intermediaries, the last of which is a registered shareholder of the company; or
2. is a trustee or personal or other legal representative in a chain of intermediaries, the last of which is a registered shareholder of the company.

The *Business Corporations Act* considers spouses, children and other family members living in the same home as individuals who act jointly.

An individual can indirectly appoint or remove a director of a company if he or she:

1. controls an intermediary registered shareholder, or a chain of intermediaries, the last of which has that right; or
2. is a trustee or personal or other legal representative in a chain of intermediaries, the last of which has that right.

Transparency Register

A Transparency Register must contain, among other things:

- the individual's full legal name, date of birth, and last known address;
- whether or not the individual is a Canadian citizen or permanent resident;
- if the individual is not a Canadian citizen or permanent resident, every country of which he or she is a citizen;
- whether the individual is resident in Canada for purposes of the *Income Tax Act* (Canada);
- the date on which the individual became, or ceased to be, a "significant individual"; and

- a description of how the individual is a “significant individual”.

Companies have a duty to take reasonable steps to create, maintain and update a Transparency Register of significant individuals. These steps include sending questionnaires to shareholders to determine whether they fit the definition of significant individual. If another corporation, partnership, trust, agent or personal or other legal representative is a shareholder, then companies must take reasonable steps to look up the chain of its ownership to determine if it is controlled by any individual, and then follow up with those individuals.

Once contacted, registered shareholders must respond to company questionnaires and provide the relevant information. Other interest holders, such as beneficial shareholders or indirect owners, may still be questioned by the company but, unlike registered shareholders, do not have a duty to respond. If significant individuals do not provide information when requested, or provide incomplete information, companies must provide as much information as they can into the Transparency Register and include steps taken to obtain the information.

Disclosure of Information in Transparency Register

A copy of the Transparency Register must be kept at the company’s records office. The Transparency Register will not be available for public inspection but may be inspected by certain authorized parties. Other than the company’s directors, the Transparency Register may be inspected by federal or provincial law enforcement officers, federal and provincial tax authorities and certain federal or provincial regulatory authorities such as the BC Securities Commission and the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC).

Penalties for Non-Compliance

There are potentially severe associated penalties for non-compliance. A private company violates the new requirements by:

- misidentifying a significant individual;
- excluding a significant individual from the Transparency Register;
- entering false information into the Transparency Register; or
- omitting information about a significant individual.

Directors and officers of companies may also face penalties for authorizing or permitting the company to commit an offence. Registered shareholders have a duty to respond to company questionnaires and may be found in violation of the *Business Corporations Act* for providing false, or omitting to provide, accurate responses. Companies, directors, officers and registered shareholders are not liable if they did not and could not have known that the information was misleading. However, if found to violate the requirements, individuals and companies face fines of up to \$50,000 and \$100,000, respectively.

WHAT YOU NEED TO DO

- 1. First, you must identify “significant individuals” in your company and obtain the required information from them.** To assist your company in collecting the required information from its shareholders, we will provide you with a Significant Individual Information Sheet for delivery to all shareholders with instructions for them to complete and return to you.
- 2. Once you have received the completed forms, please forward them to us.** As the registered office for your company, we will create your Transparency Register following receipt of the completed forms from you. There will be a fee of \$250 for the initial creation of the Transparency Register, but all future updates to the Transparency Register will be included as part of the services

included in the annual maintenance services provided under our Records Office Agreement with you.

3. **You must update this information regularly.** At least once every financial year, companies must take reasonable steps to ensure that information contained in their Transparency Register is accurate, complete and up-to-date. This obligation can be discharged by confirming new and reconfirming details of existing significant individuals. **We recommend that you send out a Significant Individual Information Sheet to all shareholders on an annual basis, and then advise us if any changes are received.** Moreover, companies have a continuing obligation to make changes to the transparency register once they become aware of any new information with respect to significant individuals.
4. **Other duties the company has include the following:**
 - Your company must notify individuals in writing within 10 days if they have been added to the Transparency Register as significant individuals or if they have ceased to be a significant individual.
 - Significant individuals must be listed in the Transparency Register for as long as they hold that status and for six years after they cease to be significant individuals. After that period, their information must be deleted from the register and any records in respect of the individual kept by the company for the Transparency Register must be destroyed within one year.

We look forward to receiving information about significant individuals in your company as soon as possible.

If you have any questions about the new requirements, please do not hesitate to contact us.

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