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Attention Those with Foreign Affiliates: The Form BE-10 Deadline is Coming Up

Every five years, the Bureau of Economic Analysis conducts the Benchmark Survey of U.S. Direct Investment Abroad. This mandatory survey collects financial and operational data on U.S. parent companies and their foreign affiliates. In brief, here's what you need to know.

WHO NEEDS TO FILE?

Any U.S. person that had an **ownership interest**, either direct or indirect, **of more than 10% in a foreign affiliate** at any time during the U.S. person's 2014 fiscal year. Common "U.S. persons" required to report include individuals, incorporated business enterprises (corporations, LLCs, etc.), estates, or trusts.

WHAT'S THE FILING DEADLINE?

The deadline is **May 29, 2015** if the U.S. Reporter is filing less than 50 forms (i.e. the U.S. Reporter has less than 50 eligible foreign affiliates) **or** if the U.S. Reporter is filing a Claim for Not Filing.

The deadline is **June 30, 2015** if the U.S. Reporter is filing 50 or more forms (i.e. the U.S. Reporter has 50 eligible foreign affiliates).

WHAT NEEDS TO BE FILED?

BEA requires all mandated U.S. Persons to complete the **BE-10A** and, depending on the circumstances described below, the **BE-10B**, **BE-10C**, and **BE-10D**.

- **BE-10A** - The U.S. person (called the "U.S. Reporter") must complete the BE-10A. All U.S. Reporters must fill out this form; however, whether a U.S. Reporter must **fully** or **partially** complete the BE-10A depends on whether any **one** of the U.S. Reporter's (i) assets, (ii) sales or gross operating revenues (excluding sales taxes), **or** (iii) net income (after U.S. income taxes) exceeds \$300 million, either in the positive or negative.
- **BE-10B** - The U.S. Reporter must complete the BE-10B if the foreign affiliate is majority owned by the U.S. Reporter **and** any one of the foreign affiliate's (i) assets, (ii) sales or gross operating revenues (excluding sales taxes), **or** (iii) net income exceeds \$80 million, either in the positive or negative.
- **BE-10C** - The U.S. Reporter must complete the BE-10C if:
 - the foreign affiliate is majority owned by the U.S. Reporter and any one of the foreign affiliate's (i) assets, (ii) sales or gross operating revenues (excluding sales taxes), **or** (iii) net income is between \$25 and \$80 million (positive or negative);
 - the foreign affiliate is minority owned by the U.S. Reporter and any one of the foreign affiliate's (i) assets, (ii) sales or gross operating revenues (excluding

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sales taxes), **or** (iii) net income is greater than \$25 million (positive or negative); or

- any one of the foreign affiliate's (i) assets, (ii) sales or gross operating revenues (excluding sales taxes), **or** (iii) net income is has assets, sales, or net income is less than \$25 million (positive or negative), **and** the foreign affiliate owns another foreign affiliate that filed a BE-10B or BE-10C.

- **BE-10D** – The U.S. Reporter must complete a BE-10D if any one of the foreign affiliate's (i) assets, (ii) sales or gross operating revenues (excluding sales taxes), **or** (iii) net income is less than \$25 million. However, this requirement **does not** apply to foreign affiliates that own another foreign affiliate that filed a BE-10B or BE-10C form.

Finally, if the U.S. Reporter was **notified** by BEA about the need to file but had no foreign affiliates during the 2014 fiscal year, then the U.S. Reporter must file a **Claim for Not Filing**.

WHAT INFORMATION IS COLLECTED?

The survey collects financial information including assets, liabilities, total sales, and net income as well as operational data such as fiscal year end, ownership structure, products and services, and primary industry. All information is confidential and cannot be presented in a way which identifies the U.S. Reporter without prior written consent. Furthermore, information cannot be used for taxation, investigation, or regulation and all copies are immune from legal process.

For more information on filing the BE-10 or for assistance in filing, please contact Michael Grundej, Mark Kaduboski, Evan Kipperman or Ashleigh Casey.

This publication is a summary of legal principles. Nothing in this article constitutes legal advice, which can only be obtained as a result of a personal consultation with an attorney. The information published here is believed accurate at the time of publication, but is subject to change and does not purport to be a complete statement of all relevant issues.