

Certain US companies that missed the May 29, 2015 deadline for filing the 2014 Benchmark Survey of US Direct Investment Abroad ("BE-10 Survey") get a reprieve. The US Department of Commerce Bureau of Economic Analysis (BEA) has extended the BE-10 Survey deadline for "new filers" to June 30, 2015. BEA defines a new filer as "a US company or person that is required to file on the BE-10 survey but has never filed any BEA survey of US direct investment abroad, including the BE-10, BE-11 and BE-577 surveys." Accordingly, the various deadlines for filing the BE-10 Survey are as follows:

Company Status	Deadline
US Company Required to File Fewer than 50 Forms that has Previously Filed a BEA Survey of US Direct Investment Abroad	May 29, 2015*
US Company that is a New Filer	June 30, 2015
US Company Required to File 50 or More Forms	June 30, 2015

\*Unless Granted an Extension

## BE-10 Survey: Mandatory Reporting Requirement for US Companies

Every US company, whether it is headquartered in the US or is a subsidiary of a foreign company, must complete a BE-10 Survey if it had even just one "foreign affiliate" (as defined below) at any time during its 2014 fiscal year. However, BEA has indicated that it will likely grant reasonable requests for an extension, so long as the request is received before the applicable deadline.

BEA collects data on US investment through a variety of surveys. While many of these surveys only require a response if the US company is contacted by BEA, US companies subject to the reporting requirements of the BE-10 Survey are required to submit a response whether or not they are contacted.

The BE-10 Survey is required every five years. A US person, meaning any person (defined broadly to include many types of entities) resident in the US or subject to the jurisdiction of the US, must file a BE-10 report if it had a foreign affiliate at any time during the US person's 2014 fiscal year. A US person is considered to have had a "foreign affiliate" if it had direct or indirect ownership or control of at least 10% of the voting stock of an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise.

There are penalties for a US company's failure to submit a BE-10 report. These penalties can include fines, imprisonment and/or injunctive relief requiring the company to comply with the filing requirements, depending on the circumstances. However, such penalties are rarely imposed on companies that make inadvertent mistakes.

## Reminder of Filing Requirements for Foreign Investments in the US

The BEA also administers the Survey of New Foreign Direct Investment in the United States ("BE-13 Survey"), and reporting is required whether or not a US entity is contacted by BEA. US entities must report if (1) a foreign direct investment in the United States relationship is created or (2) an existing US affiliate of a foreign parent establishes a new US legal entity, expands its US operations or acquires a US business enterprise. Additionally, similar to the BE-10 Survey, BEA administers a benchmark survey of foreign direct investment in the US, known as the "BE-12 Survey," every five years. The last BE-12 survey covered the fiscal year ending in 2012.

As a reminder, foreign investment in the US is subject to other notice, clearance and compliance requirements, including:

- Notice to the Committee on Foreign Investment in the United States;
- Clearance with the Department of Defense's Defense Security Service to mitigate or negate foreign ownership, control and influence for cleared US companies; and
- Notice to the Department of State's Directorate of Defense Trade Controls for US companies engaged in defense articles or defense services.

For further information or if you have questions about these reporting requirements, please contact one of the individuals listed in this publication.

## Contacts

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