

## Resources

### **June 30, 2015 Deadline for First-Time Filers of Form BE-10 Benchmark Survey on Foreign Investment**

**June 29, 2015**

Tuesday, June 30, 2015 is the deadline for U.S. persons to file a 2014 Form BE-10 Benchmark Survey with the Bureau of Economic Analysis (BEA) if they have not filed a BE-10 survey previously. Persons required to file the BE-10 survey must report certain information related to their foreign investments. The BEA administers the BE-10 survey every five years. The BEA uses the reported information for statistical and analytical purposes and it should not be used for investigation or enforcement actions.

#### **Who must file a Form BE-10?**

Despite being called a “survey,” reporting is not optional if a U.S. person meets the reporting requirements, even if the BEA does not solicit a response. All U.S. persons must file a BE-10 survey if, at any time in 2014, the U.S. person had direct or indirect ownership or control of at least 10 percent of the voting stock of an incorporated foreign business (or the equivalent interest in an unincorporated foreign business). Indirect control is calculated by multiplying a parent’s ownership of a subsidiary by that subsidiary’s ownership of another subsidiary. U.S. persons are any corporation, partnership, association, individual, estate, or trust that is resident in the United States or subject to its jurisdiction.

#### **What information is required to be reported?**

The BE-10 survey seeks information related to both the U.S. person and the foreign affiliate or affiliates. The information sought relating to the U.S. person includes its activities, its industry type, sales, expenses, sales distribution, assets, liabilities, equity, property, plant and equipment, interest revenue, research and development costs, imports and exports. If the U.S. person’s total assets, sales or gross operating revenues, excluding sales taxes, or net income is equal to or less than \$300 million, the BE-10 survey requires less information. The information sought relating to the foreign affiliate includes its location and ownership and information similar to that sought of the U.S. person, although the amount of information that must be provided depends on the relative size of the foreign affiliate and its relationship to the U.S. person.

#### **What are the penalties for failing to report?**

A failure to file the BE-10 survey can result in civil or criminal fines. If the failure to file was not willful, the person obligated to file is subject to a fine of \$2,500 to \$25,000. If the failure to file was willful, the person obligated to file is subject to a fine of up to \$10,000 and criminal penalties, including up to a year of prison.

#### **Is an extension available?**

A U.S. person required to file a BE-10 survey can seek an extension to August 31, 2015, but it must be filed by June 30, 2015.

If you have any questions or would like more information about the BE-10 survey, please contact Jeffrey M. Dalebroux at [jdalebroux@dykema.com](mailto:jdalebroux@dykema.com) or 312-627-2136, Steven E. Grob at [sgrob@dykema.com](mailto:sgrob@dykema.com) or 313-568-6582, Mark W. Weisbard at [mweisbard@dykema.com](mailto:mweisbard@dykema.com) or 312-627-2161, Michael G. Cumming at [mcumming@dykema.com](mailto:mcumming@dykema.com) or 248-203-0740, Mary A. Hennessey at [mhennessey@dykema.com](mailto:mhennessey@dykema.com) or 313-568-5310, or your Dykema relationship attorney.

June 30, 2015 Deadline for First-Time Filers of Form BE-10 Benchmark Survey on Foreign Investment (Cont.)

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## **Practice Areas**

Corporate Finance

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