



DEPARTMENT OF COMMERCE BE-10 BENCHMARK SURVEY OF U.S. DIRECT INVESTMENT ABROAD

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U.S. individuals and entities that have an ownership interest in non-U.S. entities are faced with a myriad of tax reporting and disclosure requirements imposed by the Internal Revenue Service. As a result, it may be easy to overlook reporting requirements administered by the Department of Commerce.

One of which to be aware is the BE-10, *Benchmark Survey of U.S. Direct Investment Abroad*, a mandatory survey conducted once every five years by the Department of Commerce's Bureau of Economic Analysis ("BEA"). It is time now to complete the survey for U.S. persons and foreign affiliates with fiscal years ending in 2019.

U.S. direct investment is defined as the direct or indirect ownership or control, by one U.S. person, of 10 percent or more of the voting securities of an incorporated foreign business enterprise or an equivalent interest in an unincorporated foreign business enterprise, including a branch. Ownership is determined at the end of the U.S. person's fiscal year ending in 2019. A U.S. person includes a C corporation, S corporation, partnership, limited liability company, individual, estate or trust.

The survey's filing thresholds are as follows:

Form BE-10A is required to be filed for a U.S. person that has a 10 percent or greater interest in a foreign affiliate at the end of the relevant 2019 fiscal year.

Form BE-10B is required to be filed for a foreign affiliate if such affiliate is more than 50 percent U.S.-owned and either of total assets, revenue, net income or net loss was greater than \$80 million for the fiscal year ending in 2019.

Form BE-10C is required to be filed if neither of the total assets, revenue, net income nor net loss of the foreign affiliate was greater than \$80 million,

but any of those attributes exceed \$25 million for the fiscal year ending in 2019.

Form BE-10D is required to be filed if neither revenue, assets, net income nor net loss of the foreign affiliate was greater than \$25 million for its fiscal year ended in 2019.

The due date for the filing is May 29, 2020, for U.S. reporters filing fewer than 50 BE-10s and June 30, 2020, for U.S. reporters filing 50 or more BE-10s. Penalties for non-compliance range between \$2,500 and \$25,000.

Clients should review the activities and ownership of their foreign affiliates to determine whether a Form BE-10 is required to be filed.

Please contact your Marcum tax advisor for assistance in determining the appropriate filing requirements and, if needed, help in filing the necessary forms.