

Client Insight: Prepare for BE-10 Benchmark Survey of US Direct Investment Abroad

Insights

April 21, 2025

The U.S. Department of Commerce's Bureau of Economic Analysis (the "BEA") conducts a mandatory benchmark survey on U.S. investment in foreign business enterprises via the Form BE-10 every five years. The BE-10 survey applies to all U.S. persons who directly or indirectly owned or controlled 10% or more of the voting securities of a foreign affiliate during such U.S. person's 2024 fiscal year. The deadline for filing the 2024 survey with the BEA is **May 30, 2025** for a U.S. reporter making fewer than 50 foreign affiliate filings or by **June 30, 2025** for a U.S. reporter making 50 or more foreign affiliate filings.

Below is a Q&A to assist in understanding the general scope and requirements of Form BE-10.

What is Form BE-10?

The Form BE-10 is part of a recurring 5-year benchmark survey designed by the BEA to gather current economic data on the foreign investment operations of U.S. multinational enterprises and their foreign affiliates. All "U.S. reporters" with one or more foreign affiliates during their 2024 fiscal year must make Form BE-10 filings regardless of whether they were contacted by the BEA.

Who is required to report on the Form BE-10?

Any U.S. person (including a U.S. private equity fund) who directly or indirectly owned or controlled 10% or more of the voting securities of a foreign affiliate or the equivalent interest in an unincorporated foreign business enterprise during fiscal year 2024 is considered to be a “U.S. reporter” and must file a Form BE-10A in respect of the U.S. reporter, as well as a Form BE-10B, BE-10C, BE-10D, or BE-10 Claim for Not Filing, as applicable, for each of its foreign affiliates. Similarly, entities notified by the BEA of a potential filing obligation should also submit a Form BE-10 Claim for Not Filing if the entity is out of scope. For purposes of these forms, a “U.S. person” is any individual, entity, association, branch, estate, trust, corporation, associated group or other organization resident in the United States or subject to the jurisdiction of the United States.

What is a “foreign affiliate” for purposes of this survey?

A “foreign affiliate” means any business enterprise located outside of the United States in which the U.S. person directly or indirectly owned or controlled 10% or more of the voting stock or equivalent equity of such foreign enterprise. A “business enterprise” means any organization, association, branch or venture that exists for profit-making purposes or to otherwise secure economic advantage, and any ownership of any real estate. There is no minimum dollar amount that triggers a filing although a foreign affiliate’s total assets, sales, and net income are relevant in determining which type of form must be submitted for that foreign affiliate.

How is a “foreign affiliate” and “voting equity” determination made in the case of a private equity fund?

The BEA has issued guidance to clarify the application of the BE-10 rules to private funds, drawing a conceptual distinction between fund portfolios consisting of minority investment holdings, such as a hedge fund or mutual fund, and portfolios consisting of investments in operating companies where the fund intends to have influence on management and operations. The BEA guidance treats the general partner entity of a foreign limited partnership as holding 100% of the voting interest in the private fund and limited partners as having no voting interest. If one or more investments of the private fund are “operating companies” (e.g., a business enterprise that is not itself a private fund or a holding company), the private fund owns 10% or more of the voting interests of one or more operating companies, and the U.S. reporter owns 10% or more of the voting interests of such company through the private fund, then the U.S. reporter should include the private fund on its Form BE-10. See the BEA Private Funds Reporting Change [here](#). Private funds with exclusively minority investment holdings (*i.e.* the private fund holds less than 10% of the voting interests in each of its investments in fiscal year 2024) are exempt from BE-10 reporting but may be subject

to alternative reporting systems. You can find a helpful [decision tree diagram](#) to aid in the reporting determination and a [presentation with additional detail](#).

What does the report on Form BE-10 consist of?

Form BE-10 consists of 5 forms for 2024 reporting, Forms BE-10A, BE-10B, BE-10C, BE-10D and the BE-10 Claim for Not Filing. Form BE-10A is used to report data and information regarding the U.S. reporter, and a Form BE-10B, BE-10C, BE-10D or BE-10 Claim for Not Filing, as applicable, must be completed for each of the U.S. reporter's foreign affiliates. Form BE-10B, BE-10C or BE-10D is used depending on the foreign affiliate's assets, sales or net income, and Form BE-10 Claim for Not Filing is used where the foreign affiliate is included on another related U.S. reporter's filings, or where foreign affiliates were sold, merged, liquidated, or otherwise ceased to exist during the 2024 fiscal year.

Is the information reported on Form BE-10 confidential?

The information that is collected on Form BE-10 is confidential and may be used only for analytical and statistical purposes. Access to the information will be available only to the BEA and is not subject to FOIA or other investigative requests by other Federal agencies. The results of the survey will be made available to the general public at an aggregated level so that neither U.S. persons providing information nor their foreign affiliates can be identified. See [here](#) for more detail.

What is the due date for filing the Form BE-10?

A complete Form BE-10 must be submitted to the BEA by **May 30, 2025** for a U.S. reporter making fewer than 50 foreign affiliate filings and by **June 30, 2025** for a U.S. reporter making 50 or more foreign affiliate filings.

What are the penalties for failing to report?

Failure to comply with the BEA's filing requirements may result in civil penalties of between \$5,911 and \$59,114, and injunctive relief forcing compliance, or both, and potentially criminal penalties for a willful failure to report.

How must the reports be submitted?

While users have previously had the option to file by physical mailing, fax or online, the BEA is encouraging all users to submit Form BE-10 electronically via the [BEA eFile website](#). If you are a new filer, the BEA eFile site will allow you to set up a user name and login password for submissions. The BEA will also accept forms by fax at (301) 278-9502.

Where can I find additional information regarding Form BE-10 and the reporting requirements?

The complete *2024 Benchmark Survey of Direct Investment Abroad (Forms BE-10A, BE-10B, BE-10C, BE-10D and BE-10 Claim for Not Filing)* and instructions to the forms may be downloaded [here](#). The *Guide to Industry Classifications for International Surveys, 2022*, which contains industry classifications, may be downloaded [here](#). The instructions provide detailed information about the reporting requirements for each Form BE-10, as well as specific instructions for their completion and submission. We encourage all of our clients to carefully review these instructions and related publications to determine if you have a BE-10 reporting obligation and, if so, how to complete Form BE-10A and Forms BE-10B, BE-10C, BE-10D or BE-10 Claim for Not Filing, as appropriate.

Please do not hesitate to contact one of your Gunderson Dettmer attorneys if you have questions about this update.

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