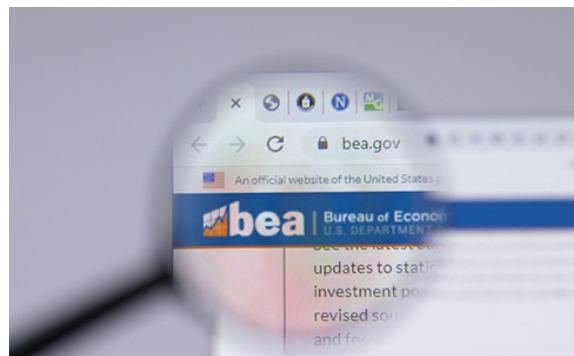


Foreign-Owned U.S. Entities Have Until June 30, 2023 To File Form BE-12 With The Bureau of Economic Analysis

June 20, 2023

By Michiel A. Bloemsma



This year, the Bureau of Economic Analysis ("BEA") of the U.S. Department of Commerce is conducting a mandatory five-year survey on foreign investments in the United States for fiscal years ending in 2022. The survey covers financial and operating data of U.S. affiliates of foreign multinational enterprises. The survey is used to produce statistics on the scale and effects of foreign-owned business activities in the United States.

Reporting on BEA's direct investment surveys is mandatory under the International Investment and Trade in Services Survey Act (P.L. 94-472, 90 Stat. 2059, 22 U.S.C. 3101-3108, as amended). The act protects the confidentiality of the data that companies report. BEA is prohibited from granting another agency access to the data for tax, investigative, or regulatory purposes.

A BE-12 report is required for each U.S. affiliate, i.e., for each U.S. business enterprise (including real estate held for non-personal use) in which a foreign person or entity owned or controlled, directly or indirectly, 10 % or more of the voting securities or equivalent interest of a U.S. business enterprise, at the end of the business enterprise's fiscal year that ended in the calendar year 2022. Certain private funds may be exempt from filing.

Which BE-12 report to file depends on the size of the U.S. entity. See the chart on the BEA website. U.S. entities that were at least 10% owned by a non-U.S. entity in 2022 and whose total assets, sales, or gross operating revenues or net income did not exceed \$60 million in 2022 must file BE-12C. Larger foreign-owned U.S. entities may need to file BE-12A or BE-12B. The forms are available online on the BEA [website](#).

Companies that did not file a hard copy of the BE-12 by May 31, 2023, can still file an electronic copy online via the [BEA website](#) **by June 30, 2023**. Failure to provide the required information may result in fines ranging from \$5,580 to \$55,808 and possible criminal penalties, including imprisonment.

If you have any questions or need assistance with filing BE-12, please contact me at 212-545-1900 or mbloemsma@offitkurman.com.

DISCLAIMER: The information contained in this blog alert is intended for informational purposes only; and should not be relied upon or construed as legal advice.