

Foreign Direct Investment Survey Form BE-12 due May 31, 2018

WHAT YOU NEED TO KNOW

The United States Bureau of Economic Analysis (“BEA”) is conducting a benchmark survey using [form BE-12](#) that seeks financial and operating data about U.S. affiliates of foreign multinational enterprises. The BEA conducts this survey every five years, with responses to the current one due by May 31, 2018.

A BE-12 form is required to be filed with the BEA for all U.S. businesses of which a foreign entity or person, as of the end of calendar year 2017, owned or controlled, directly or indirectly, 10 percent or more of (a) the voting securities of an incorporated U.S. business or (b) an equivalent interest if an unincorporated U.S. business enterprise. A narrow exemption exists for certain private funds that meet the following criteria: (i) the private fund is a U.S. business enterprise; (ii) the private fund does not own, directly or indirectly, an “operating company” (an enterprise that is not a private fund of which the foreign parent owns at least 10 percent of the voting interest); and (iii) if the foreign parent owns the private fund indirectly, there are no U.S. operating companies in between the foreign parent and the private fund.

WHAT YOU NEED TO DO

Failure to file form BE-12 may subject a U.S. business to civil penalties and, if found to have willfully failed to file the form BE-12, to criminal penalties as well. Importantly, officers, directors, or employees who willfully fail to file form BE-12 may also be subject to criminal penalties. For this reason, non-U.S. clients with investments in U.S. businesses should ensure that they complete form BE-12 by May 31, 2018.

FOR MORE INFORMATION

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