

April 2012

CURRENT REPORTING REQUIREMENTS FOR BEA SURVEYS OF  
FOREIGN DIRECT INVESTMENT IN THE UNITED STATES

All U.S. business enterprises in which a foreign person (in the broad legal sense, including a company) owns directly and/or indirectly a ten-percent-or-more voting interest (or the equivalent) are subject to these reporting requirements. This includes foreign ownership of real estate, improved and unimproved, except residential real estate held exclusively for personal use and not for profit making purposes. A U.S. business enterprise or real estate subject to these reporting requirements is hereinafter referred to as a **U.S. affiliate**. A foreign person owning a ten-percent-or-more voting interest (or the equivalent) in a U.S. affiliate is hereinafter referred to as a **foreign parent**.

A U.S. affiliate must file on a fully consolidated domestic U.S. basis, including in the full consolidation all U.S. business enterprises proceeding down each ownership chain whose voting securities are more than 50 percent owned by the U.S. business enterprise above. The fully consolidated entity is considered one U.S. affiliate.

Electronic filing is available through BEA's eFile system at [www.bea.gov/efile](http://www.bea.gov/efile). Copies of the report forms and instructions are available on BEA's Web site at [www.bea.gov/fdi](http://www.bea.gov/fdi). If you have questions please contact us by telephone, at (202) 606-5577, or via email, at [be605@bea.gov](mailto:be605@bea.gov) for questions pertaining to the quarterly report (BE-605), or [be12/15@bea.gov](mailto:be12/15@bea.gov) for questions pertaining to the annual and benchmark reports (BE-15 and BE-12).

**I. Quarterly Survey (Form BE-605).** The purpose of the quarterly survey is to report positions and transactions between a U.S. affiliate and its foreign parent(s) and foreign affiliates of the foreign parent(s). In addition, a BE-605 report is required for any U.S. affiliate that was established, acquired, liquidated, sold, or became inactive during the reporting period. Quarterly reports must be filed within 30 days after the close of each calendar or fiscal quarter, except the report for the fourth quarter which may be filed 45 days after the close of the quarter.

**Exemption from Filing Form BE-605.** A U.S. business enterprise is exempt from filing Form BE-605 if:

1. A foreign person did NOT have a direct and/or indirect voting ownership interest (or the equivalent) of ten-percent-or-more in a U.S. business enterprise at any time during the quarter; or
2. The values of total assets, annual sales or gross operating revenues AND annual net income (loss) for the U.S. affiliate were EACH equal to or less than \$60 million (positive or negative) for the most recent financial reporting year; or
3. The foreign ownership in U.S. affiliate is a) held indirectly through another U.S. affiliate owned by the foreign parent and b) the indirectly held U.S. affiliate has no direct transactions with the foreign parent(s) or foreign affiliates of the foreign parent(s).

A U.S. business enterprise that meets one of the exemption criteria listed above must complete the Claim for Exemption from filing a BE-605 (see page 13 of the form) and also page 15 of the form. For an initial filing, the U.S. business enterprise must also complete pages 1 through 3.

**II. Annual Survey (Form BE-15).** The purpose of the annual survey is to report annual financial and operating data of U.S. affiliates. BEA is currently accepting submissions of the 2010 and 2011 annual surveys.

**Which BE-15 Form to File?**

- A. **Form BE-15A** – Report for a majority-owned U.S. affiliate with total assets, sales or gross operating revenues, or net income greater than \$275 million (positive or negative). A U.S. affiliate is "majority-owned" if the combined direct and/or indirect voting ownership interests (or the equivalent) of all foreign parents of the U.S. affiliate exceeds 50 percent.
  
- B. **Form BE-15B** – Report for 1) a majority-owned U.S. affiliate with total assets, sales or gross operating revenues, or net income greater than \$120 million (positive or negative), but not greater than \$275 million (positive or negative) and, 2) a minority-owned U.S. affiliate with total assets, sales or gross operating revenues, or net income greater than \$120 million (positive or negative). A U.S. affiliate is "minority-owned" if the combined direct and/or indirect voting ownership interests (or the equivalent) of all foreign parents of the U.S. affiliate is 50 percent or less.
  
- C. **Form BE-15(EZ)** – Report for a U.S. affiliate with total assets, sales or gross operating revenues, or net income greater than \$40 million (positive or negative) but not greater than \$120 million (positive or negative), and if 1) the U.S. affiliate has been instructed in writing by BEA to file a BE-15, OR 2) the U.S. affiliate has not filed a BE-12 or a BE-15 in the past.
  
- D. **Form BE-15 Claim for Exemption** – Report for claiming exemption if foreign voting ownership (or the equivalent) in the U.S affiliate falls below 10 percent, the U.S. affiliate is fully consolidated or merged into another U.S. affiliate, or if total assets, sales or gross operating revenues, or net income are ALL \$40 million or less (positive or negative).

Following an initial filing, the BE-15 Claim for Exemption is not required annually from U.S. affiliates that meet the stated exemption criteria from year to year. However, the BE-15 Claim for Exemption must be filed if BEA mails you a BE-15 form and the U.S. business enterprise is exempt from filing.

**III. Benchmark Survey (Form BE-12).** The BE-12 benchmark survey is BEA's most comprehensive survey of foreign direct investment in the United States. The benchmark survey is conducted once every 5 years (in lieu of the BE-15, annual survey). The current benchmark survey covers the year 2012. PLEASE NOTE: At this time BEA will only accept 2012 surveys submitted via eFile; paper submissions will be accepted beginning in March 2013.

## Which BE-12 Form to File?

- A. **Form BE-12A** – Report for a majority-owned U.S. affiliate with total assets, sales or gross operating revenues, or net income greater than \$300 million (positive or negative). A U.S. affiliate is "majority-owned" if the combined direct and/or indirect voting ownership interests (or the equivalent) of all foreign parents of the U.S. affiliate exceeds 50 percent.
- B. **Form BE-12B** – Report for 1) a majority-owned U.S. affiliate with total assets, sales or gross operating revenues, or net income greater than \$60 million (positive or negative), but not greater than \$300 million (positive or negative), and 2) a minority-owned U.S. affiliate with total assets, sales or gross operating revenues, or net income greater than \$60 million (positive or negative). A U.S. affiliate is "minority-owned" if the direct and/or indirect voting ownership interests (or the equivalent) of all foreign parents of the U.S. affiliate is 50 percent or less.
- C. **Form BE-12C** – Report for a U.S. affiliate with total assets, sales or gross operating revenues, and net income less than or equal to \$60 million (positive or negative). A U.S. affiliate with total assets, sales or gross operating revenues, and net income of \$20 million or less (positive or negative) is required to report only selected data items on the BE-12C form.
- D. **Form BE-12 Claim for Not Filing** – Report for claiming exemption if a foreign person did not own 10 percent or more of the voting ownership (or the equivalent) in the U.S. business enterprise, that the U.S. business enterprise is fully consolidated or merged into another U.S. affiliate, or that the U.S. business enterprise was liquidated or dissolved. This report may be used for response by persons that are not subject to the reporting requirements of the BE-12 survey but have been contacted by BEA concerning their reporting status.

## Legal Authority, Penalties, and Confidentiality

**Authority** – All surveys requiring the reports described on the previous pages are conducted pursuant to the International Investment and Trade in Services Survey Act (P.L. 94-472, 90 Stat. 2059, 22 U.S.C. 3101-3108, as amended, hereinafter "the Act"), and the filing of reports is MANDATORY pursuant to Section 5(b)(2) of the Act (22 U.S.C. 3104).

**Penalties** – Whoever fails to report shall be subject to a civil penalty of not less than \$2,500, and not more than \$25,000, and to injunctive relief commanding such person to comply, or both. These civil penalties are subject to inflationary adjustments. Those adjustments are found in 15 CFR 6.4. Whoever willfully fails to report shall be fined not more than \$10,000 and, if an individual, may be imprisoned for not more than one year, or both. Any officer, director, employee, or agent of any corporation who knowingly participates in such violations, upon conviction, may be punished by a like fine, imprisonment, or both (22 U.S.C. 3105).

**Confidentiality** – The Act provides that your reports to this Bureau are CONFIDENTIAL and may be used only for analytical or statistical purposes. Without your prior written permission, the information filed in your reports CANNOT be presented in a manner that allows it to be individually identified. Your report CANNOT be used for purposes of taxation, investigation, or regulation. Copies retained in your files are immune from legal process.