

U.S. SUBSIDIARIES OF CANADIAN AND OTHER FOREIGN COMPANIES FACE IMMINENT REPORTING DEADLINE FOR U.S. FEDERAL SURVEY

Canada-U.S. Cross Border Practice Alert
May 31, 2018

Every five years, the Bureau of Economic Analysis of the United States Department of Commerce (BEA) conducts a comprehensive survey of financial and operating data of U.S. subsidiaries of foreign companies. The most recent survey is for fiscal years ending in 2017. In previous survey years, the BEA contacted those companies that were required to participate in the survey. We have just learned that the BEA changed this requirement. For this survey, all U.S. companies with 10% or more foreign ownership of voting securities (or equivalent ownership interests) are required to file a BE-12, whether or not they are notified by the BEA. Foreign ownership can be direct or indirect and includes ownership by a foreign entity or person. This means that if you are a foreign company with a U.S. subsidiary, your U.S. subsidiary has a mandatory filing requirement.

The deadline for filing a hardcopy by mail, courier or fax is May 31, 2018. The deadline for filing using the BEA's online portal is June 30, 2018. If a company believes it cannot make its BE-12 filing in time, it can file for an extension before May 31, 2018. The consequences for not complying are severe, including the possibility of civil penalties and criminal charges against company officials.

There are three types of BE-12 forms depending on the size of the U.S. subsidiary. Please see the BEA's flow chart title "Which 2017 BE-12 Form to File" at <https://www.bea.gov/surveys/pdf/be12/which-form-do-i-file-2017.pdf>. The data submitted in a BE-12, like that in all other BEA filings, is not shared with other U.S. government departments and agencies, such as the IRS.

Additional information regarding the BE-12 can be found at https://www.bea.gov/surveys/respondent_be12_be15.htm.

Do not hesitate to contact your relationship attorney at Hodgson Russ, if you need assistance with this filing.

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Practices & Industries

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