



Robert W. Wood

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Additional Time-Consuming Forms For Offshore Reporting Due June 30, 2015

Offshore reporting carries many special rules, all of them with a raft of potential penalties. By now, most U.S. persons are familiar with the requirement to report their offshore accounts and assets. For those who are not, you must report all income and disclose the existence of accounts on tax returns and [FBARs](#). And for many, under [FATCA](#), there are [Form 8938](#) filing obligations. You may also face gift and trust reporting issues on [Forms 3520](#) and [3520-A](#).

Offshore companies and their shareholders face many other reporting requirements, most obviously IRS [Form 5471](#). That can be required for 10% owners. Ownership in an offshore partnership may have to be reported on a [Form 8865](#). But if you have navigated all of these FBAR, 8938, 3520(-A), 8865, and 5471 obligations, you are done, correct? Not quite.



This year, 2015, there is a new one. It is not even from the IRS or FinCEN, the latter being the people who administer the FBAR rules. This time it is the Bureau of Economic Analysis (“BEA”) of the U.S. Department of Commerce. Get ready for [Form BE-10](#).

This is a [survey form](#), filed once every five years with the BEA for direct investments by U.S. persons in foreign business enterprises. Its purpose is to obtain data on the operations of certain U.S. persons (whether individuals or entities) and their respective foreign affiliate(s). This isn’t just account data.

In fact, the feds want to know about business activities, products, services, sales, employment data, financial and operating data, and transactions between the U.S. person and foreign affiliate(s). U.S. persons that held 10% or more of the voting equity in a foreign business enterprise during the 2014 fiscal year are subject to the BE-10 filing requirements. A separate filing, [Form BE-13](#), must be made by certain U.S. entities in connection with significant U.S. investments by foreign persons in 2014.

Up until now, you only had to complete the BE-10 and BE-13 filings upon *direct request* by the BEA. Now, however, all U.S. persons that meet the applicable filing requirements must file the appropriate forms with the BEA, regardless of whether they received a direct request to do so. A Form BE-10 must be submitted by June 30, 2015, for first-time filers. There is an [extension request form](#) to extend the deadline to no later than August 31, 2015. There can be substantial penalties for non-compliance.

Both civil and criminal penalties may be imposed for failure to file Form BE-10 with the BEA. The civil penalties for failure to file range from \$2,500 to \$25,000. Willful violations may result in *criminal penalties* of up to \$10,000 and imprisonment for up to one year.

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