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The latest on Bureau of Economic Analysis reporting – Form BE-10

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"Bureau of Economic Analysis reporting – Form BE-10" reported on the new requirement that all US persons owning 10% or more of a foreign affiliate in 2014 report certain information regarding that affiliate to the Bureau of Economic Analysis (BEA). The BEA recently revised the form used to request an extension of time to file the BE-10 survey. The form is posted at www.bea.gov/surveys/respondent_be10.html and no longer makes reference to the number of investments in foreign businesses to be reported by the US reporter. Thus, it is now more applicable to small filers such as a trust or limited liability company reporting only one foreign affiliate. The form also specifically notes that the requester is to consider the extension granted, unless the requester is contacted by the BEA. New US reporters were previously given an extension of time to file until June 30 and, with the newly released form, may request a further extension to July 31 or August 31 2015. A reporter identification number is not required to submit the extension request; nor is it required to file the BE-10 survey form itself, unless the filer wants to use the bureau's e-file system. Anyone can extend filing until August 31. The extension request can be submitted via fax, email or telephone. If the requester is an accountant, attorney, family office manager or other contact person needing to request a filing extension for more than one US reporter, a representative of the BEA has said that the contact person may attach a spreadsheet to a single extension request form.

It appears that different BEA representatives may be giving some differing responses when contacted with regard to determining whether an irrevocable trust with a discretionary class of beneficiaries has a BE-10 filing requirement. Given the potential penalties for failure to file, where the trust owns 10% or more of the stock of a foreign corporation, the issue should be discussed with a US attorney or accountant if there is a US settlor, a US trustee or US discretionary beneficiaries.

For further information on this topic please contact Jennie Cherry, Eric Dorsch or Pamela Goldfarb at Kozusko Harris Duncan by telephone (+1 212 980 0010) or email (jcherry@kozlaw.com, edorsch@kozlaw.com or pgoldfarb@kozlaw.com). The Kozusko Harris Duncan website can be accessed at www.kozlaw.com.

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