

Bodman PLC

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A Year-End Reminder: Potentially Overlooked Reporting Requirements

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For many organizations and individuals, the end of the calendar year generates significant reporting obligations, particularly with respect to the Internal Revenue Service. The following requirements may not be obvious but filers should consider them carefully as part of year-end planning.

- **Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return**, must be filed by United States citizens or residents giving gifts of more than the annual exclusion amount (\$17,000 in 2023) to a single recipient.
- **Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return**, must be filed by an employer to report federal unemployment taxes (due on the first \$7,000 of wages paid to each employee in 2023). FUTA tax may be due on payments made to household employees, but many household employers choose to report FUTA tax on Form 1040, Schedule H, instead of Form 940.
- **Form 944, Employer's Annual Federal Tax Return**, must be filed by small employers with an annual liability of \$1,000 or less for social security, Medicare, and withheld federal income taxes. If a household employer chooses not to use Form 1040, Schedule H, both Form 940 and Form 944 (referenced above) will generally be required.
- **Form 945, Annual Return of Withheld Federal Income Tax**, must be filed by an organization required to withhold federal income tax from nonpayroll payments (e.g., gambling winnings, payments subject to backup withholding, and pensions).
- **Form 3520, Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts**, must be filed by a United States person who owns a foreign trust, engages in certain transactions with a foreign trust, or receives certain large gifts or bequests from foreign persons.

- **Form 5471, Information Return of U.S. Persons with Respect to Certain Foreign Corporations**, must be filed by certain United States persons who are officers, directors, or shareholders in certain foreign corporations.
- **Form 5472, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business**, must be filed by a foreign corporation that is engaged in a trade or business within the United States and by a United States corporation owned 25% by a foreign person (this includes disregarded entities that are owned by foreign entities).
- **Form 8865, Return of U.S. Persons with Respect to Certain Foreign Partnerships**, must be filed by certain United States persons owning an interest in a foreign partnership or engaged in certain transactions with respect to a foreign partnership.
- **Form 8938, Statement of Specified Foreign Financial Assets**, must be filed by certain individuals and domestic entities having an interest in specified foreign financial assets at or above a certain threshold value.
- **Report of Foreign Bank and Financial Accounts (FBAR)**, filed with the United States Treasury Financial Crimes Enforcement Network (FinCEN), must be filed by individuals with a financial interest in or signatory authority over foreign financial accounts with an aggregate value of more than \$10,000 at any time during the year.
- Beginning January 1, 2024, new entities will be required to file **Corporate Transparency Act reports** with FinCEN within 90 days of entity formation (for entities formed on or after January 1, 2024 and before January 1, 2025). This timing requirement will be reduced to within 30 days of formation for entities formed on or after January 1, 2025. Corporate Transparency Act reports for entities formed before January 1, 2024 will be due to FinCEN on January 1, 2025.
- Deadlines to elect to pay state **Pass-through Entity (PTE) or Flow-through Entity (FTE) taxes** vary, but some elections are due before the due date of the related annual return. Entities taxed as partnerships or S-corporations should review applicable state requirements. For example, in Michigan, a firm deadline of March 15 applies to the FTE tax election.
- **State Annual Reports** are required on a yearly basis in many states. These reports may be required of domestic entities (entities formed in-state), foreign entities (entities formed in other states), or both.

If you have questions regarding your filing obligations at any time of the year, please contact your Bodman attorney or any member of the Business Tax Practice Group listed below. Bodman cannot respond to your questions or receive information from you without establishing an attorney-client relationship and clearing potential conflicts with other clients. Thank you for your patience and understanding.

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