

October 14, 2016

U.S. DEPARTMENT OF THE TREASURY

GUIDANCE REGARDING TRAVEL BETWEEN THE UNITED STATES AND CUBA

Which individuals may be transported between the United States and Cuba by a person that qualifies for the general license to provide carrier services?

- Persons subject to U.S. jurisdiction who are traveling to or from Cuba pursuant to a general license under one of the 12 categories of travel listed in section 515.560 of the Cuban Assets Control Regulations, 31 C.F.R. part 515 (CACR), or under a specific license from OFAC may be transported between the United States and Cuba.
- Cuban nationals applying for admission to the United States, as well as third-country nationals, with a valid visa or other travel authorization¹ issued by the U.S. government may be transported to the United States from Cuba.
- Cuban nationals present in the United States in a non-immigrant status or pursuant to other non-immigrant travel authorization issued by the U.S. government may be transported from the United States to Cuba. Cuban nationals who have taken up residence in the United States and are licensed as unblocked nationals pursuant to 31 C.F.R. § 515.505(a)(1) are persons subject to U.S. jurisdiction and may be transported between the United States and Cuba if they meet the criteria set out in the first bullet above.
- An individual, including a foreign national, who is traveling on official business of the U.S. government, a foreign government, or an intergovernmental organization of which the United States is a member or in which the United States holds observer status – including an employee, contractor, or grantee of such government or intergovernmental organization and any individual traveling on a diplomatic passport, as well as any close relative, as defined in 31 C.F.R. § 515.339, accompanying the traveler — may be transported between the United States and Cuba.

Section 515.572 of the CACR authorizes persons subject to U.S. jurisdiction to provide carrier services to, from, or within Cuba, in connection with travel and transportation of individuals between the United States and Cuba, directly or indirectly, authorized pursuant to the CACR. The Commerce Department's Bureau of Industry and Security (BIS) regulates the temporary sojourn to Cuba of both aircraft and vessels, which in some cases is authorized by License Exception Aircraft, Vessels and Spacecraft (AVS) but may require separate authorization by BIS. Persons engaging in carrier services may require additional authorizations by other U.S. government agencies. Persons subject to U.S. jurisdiction providing travel or carrier services are required to retain for at least five years from the date of the transaction a certification from each customer indicating the section of the CACR, or a copy of the specific license or the specific license number, that authorizes the person to travel to Cuba. Certifications may be collected and maintained in any form, including electronically, and must be retained for at least five years from the date of the transaction.

¹ This includes individuals eligible to enter the United States under the Visa Waiver Program (VWP), as administered through the Electronic System for Travel Authorization (ESTA).

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What type of cargo may a person authorized to provide carrier services transport from the United States to Cuba?

Section 515.533 of the CACR authorizes all transactions ordinarily incident to the export to Cuba of items licensed or otherwise authorized by BIS. Accordingly, a person providing carrier services for authorized travelers going from the United States to Cuba may transport cargo and baggage accompanying an authorized traveler provided that the export of the cargo and baggage is authorized by BIS. Additionally, a person providing carrier services for authorized travelers going from the United States to Cuba may transport other cargo or unaccompanied baggage whose export to Cuba is authorized by BIS.

The exportation of information and informational materials, as defined in section 515.332 of the CACR, to Cuba from the United States is exempt from the prohibitions of the CACR.

What type of cargo may a person authorized to provide carrier services transport from Cuba to the United States?

Under the CACR, an authorized traveler departing Cuba for the United States may carry as accompanied baggage:

- For persons subject to U.S. jurisdiction, any Cuban-origin items for personal use only, including Cuban-origin alcohol and tobacco products, as authorized by 31 CFR § 515.560(c)(3).
- For foreign nationals, any Cuban-origin items, including alcohol and tobacco products, provided that such goods are not in commercial quantities and are not imported for resale, as authorized by 31 CFR § 515.569.
- All travelers also may carry goods produced by Cuban entrepreneurs as authorized by 31 CFR § 515.582 and the State Department's Section 515.582 List (available at <http://www.state.gov/e/eb/tfs/spi/cuba/515582/237471.htm>).
- A traveler who left the United States for Cuba and is now returning to the United States also may carry any items the traveler temporarily exported to Cuba pursuant to a BIS authorization.

Additionally, persons authorized to provide carrier services may transport from Cuba to the United States cargo, other than accompanied baggage, the importation of which has been authorized by general or specific license from OFAC, subject to obtaining any additional authorization(s) that may be required by any other relevant U.S. government agency.

The importation of Cuban-origin information and informational materials, as defined in section 515.332 of the CACR, is exempt from the prohibitions of the CACR.

Imports authorized by OFAC would still be subject to other U.S. laws, such as import duties.