



UNDERSTANDING THE US EXPORT REQUIREMENTS FOR BUSINESS AIRCRAFT

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Introduction:

While most people are generally aware that the United States (US) regulates the export of goods, many in the aviation industry are just now becoming familiar with the implications of the US' export requirements on cross-border transactions involving new and pre-owned aircraft.

The increased awareness of the export rules is due to a combination of factors, including the recent heightened scrutiny of aircraft transactions by the Bureau of Industry and Security (BIS), which enforces the export requirements, the guidance issued over the last two years by the US Census Bureau (Census), which collects and analyzes the export data, and the efforts of industry groups like the National Business Aircraft Association (NBAA) to collaborate with and educate both the industry and the government concerning the proper application of the export requirements to aircraft transactions.

When do business aircraft need to be exported through US Customs and how do you do it?

An export filing must be made whenever an aircraft is relocated from the US to a foreign destination where it is intended to be based for one year or more. The most common example of this would be the sale of a US-based aircraft to a foreign buyer. A filing may also be needed when a foreign-based aircraft is imported into the US for improvements and then is returned to its foreign base. In that case the export filing would relate to the value of the improvements.

An export filing must be made before the aircraft is removed from the US. The filing, known as the Electronic Export Information (EEI), is made using software linked to US Customs' Automated Export System (AES). In most cases the EEI will be filed by a US Customs broker hired by one of the parties to the export transaction.

It is important to note that an export filing is not required in all situations. For example, a filing is not needed when a US-based aircraft leaves the country temporarily for the routine transport of passengers or cargo. In this case, the aircraft is not the merchandise being exported, but rather is just the mode of transportation. It is also not necessary to export an aircraft through US Customs if the aircraft is temporarily moved to one or more foreign bases but is returned to its permanent base in the US within one year.

How do the rules apply to exports of aircraft?

Many types of goods purchased in the US for export are shipped out of the US by the seller. However, aircraft acquired in the US are most often removed from the US by the buyer. As a result, the export rules that apply to most cross-border aircraft transactions are different than the rules that apply to many other exports. Also, unlike exports of certain other types of goods, more than one party to an aircraft transaction may have responsibilities associated with the export filing.

The NBAA has released some valuable resources about aircraft exports that were developed through close cooperation among Census, BIS and the NBAA. These include: an article describing the parties, the process and other issues relevant to aircraft exports; the latest guidance on aircraft exports issued by

Census, and; thirteen common fact patterns involving exports, including analysis of the applicable export rules and commentary by Census and BIS.

The thirteen scenarios address topics such as the appropriate type of export and how to identify the parties responsible for the export when:

- An aircraft is sold or leased in the US to a buyer who intends to base the aircraft outside the US for one year or longer.
- A US seller moves an aircraft to a foreign destination in preparation for a sale or lease to a party who intends to base the aircraft outside the US for one year or longer.
- An aircraft that is held through an owner trust is relocated from the US to a foreign destination where it is intended to be based for one year or longer.
- After purchasing an aircraft in the US, a foreign buyer brings it to a US maintenance facility for repairs or improvements before it is removed to a foreign destination where it will be based for one year or longer.
- The owner of a US-based aircraft relocates its aircraft to a foreign destination where it will be based for one year or longer.

The information is available to NBAA members through the following link: <https://nbaa.org/flight-department-administration/aircraft-registration-transactions/exporting-aircraft-from-the-united-states/>. Anyone who is not yet an NBAA member, but would like to join, can do so at: <https://nbaa.org/membership/join-nbaa/>.

For questions about how the rules apply to a particular export, parties should consult legal counsel or a US Customs broker familiar with aircraft exports.

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