

## EXPORT CONTROLS

Export controls are the system of laws that regulate the export (and re-export) of goods from the United States and are an integral part of U.S. commerce.

U.S. law divides the control function in two categories: Commercial and Military.

- The U.S. Department of Commerce, Bureau of Industry and Security ([www.bis.doc.gov](http://www.bis.doc.gov)) governs commercial products- Export Administration Rules (EARs).
- The U.S. Department of State, Directorate of Defense Trade Controls ([www.pmddtc.state.gov](http://www.pmddtc.state.gov)) governs the military side- International Traffic in Arms Regulations (ITARs).

Items having the potential of both commercial and military use begin with the U.S. Department of Commerce. However, an item developed for military use, using military specifications belongs under the initial jurisdiction of the Department of State, even if it has a commercial application.

Penalties for ignoring or circumventing these regulations are severe. When in doubt ASK FOR CLARIFICATION OR DIRECTION. Both the Bureau of Industry and Security and the Directorate of Defense Trade Controls have contact points for this. In addition, the Washington State Department of Commerce ([www.choosewashington.com](http://www.choosewashington.com)) offers advice to assist companies in developing strategies for export controls requirements.

## KEY POINTS

- All exports from the United States are potentially subject to export controls. A vast majority of goods will not require you to obtain a license, but do not ignore the possibility.
- An export is the transfer of goods or knowledge from an American source to a foreign source.
- An American source is a U.S. citizen or a green card holder. All other persons are considered non-U.S. persons and any product or information

transferred to them is AN EXPORT. It does not matter where that transfer takes place.

- If the transfer occurs within the United States or between a U.S. person and a foreign national in another country it is considered a “DEEMED EXPORT”
- Companies producing products or developing technologies or information relative to export control laws and regulations are potentially subject to those laws and the penalties for violation EVEN IF they sell only domestically.
- Remember your web site is accessible worldwide.
- Companies and individuals must know who the ultimate end user is or at least make a reasonable effort to discover who that end user might be.
- There are numerous lists you should check (many are accessible at [www.bis.doc.gov](http://www.bis.doc.gov)). It is a violation to deal with anyone or any organization on these lists regardless where the transaction takes place.
- If you are suspicious of an activity, for example if someone orders something from you that is beyond a normal order in size, always ask why.

**Finally, keep FIVE questions in mind when doing business:**

- 1) Am I exporting (keeping in mind “deemed export”)?
- 2) What am I exporting?
- 3) Where am I exporting it to?
- 4) Who is receiving the good?
- 5) What will it be used for?

If answers to any of these questions cause concern, you should definitely seek guidance and clarification from an appropriate advisor.

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