Do I Need an Export License?

Introduction to Export Controls under the Export Administration Regulations (EAR, 15 CFR parts 730-774)
Which Agencies Have Export Control Functions?

- State/DDTC administers defense articles export controls under the International Traffic in Arms Regulations (ITAR)
- Embassies conduct visa interviews
- BIS administers the Export Administration Regulations (EAR): dual-use and some munitions/military export controls
- Office of Foreign Assets Control (OFAC) for sanctions

Other agencies include the Nuclear Regulatory Commission and the Department of Energy.
New to the EAR?

Start here at:
www.bis.doc.gov

Exporter Portal
Basics of Licensing Requirements

What are you Exporting?
Where is it Going?
Who is Receiving It?
What is the End Use?
**EXPORT CONTROL DECISION TREE**

Subject to the EAR?
(See § 734.2 – 5)

- No → Exit the EAR
- Yes → Is your item classified under an ECCN on the CCL?
  (See § 736.2(b)(1-3))
  (See Supp No. 1 to Part 774)
- No → EAR99
- Yes → Do General Prohibitions 4-10 apply?
  [See § 736.2(b)(4-10)]
  - No → “No License Required” (NLR)
    [See §§ 732.5(a) & 758.1(d, f, g)]
    - No → Submit an application for license
      (See Part 748)
    - Yes → Use License Exception
      (See Part 740)
- Yes → Is there an “X” in the box? [(Using the Commerce Country Chart (Supp. No. 1 to Part 738), CCL (Supp. No. 1 to Part 774))]
  - No → “No License Required” (NLR)
    [See §§ 732.5(a) & 758.1(d, f, g)]
    - No → Submit an application for license
      (See Part 748)
  - Yes → Is a License Exception Available?
    (See Part 740, including § 740.2 “Restrictions on all license exceptions”)
  - Yes → Use License Exception
    (See Part 740)
- No → Submit an application for license
  (See Part 748)

EAR part 732 Supp. 1
**What is an ECCN?**

Export Control Classification Number on the Commerce Control List

<table>
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<tr>
<th>1</th>
<th>C</th>
<th>350</th>
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- **Category**
- **Product Group**
- **Type of Control**

Subject to the EAR but not listed on the CCL = EAR99
Decision Tree Tools


Decision Tree Tools

Details

CCL Order of Review
The CCL Order of Review Decision Tool will assist users in understanding the steps to follow in reviewing the Commerce Control List when determining the classification of their item. (See Supplement No. 4 to part 774 of the EAR)

Specially Designed
The “Specially Designed” Decision Tool will assist users in determining if an item is “specially designed” under the Export Administration Regulations. (See § 772.1 of the EAR)

STA
The Strategic Trade Authorization (STA) tool will help you determine if your item is eligible for License Exception STA ($ 740.20 of the EAR) and if you are prepared to meet the compliance requirements of License Exception STA.

Note: The STA tool is now updated for the 800 series and 9x515 ECN.

De minimis & Direct Product Rules
This tool will help you determine if your non-U.S.-made item, which is located outside the U.S., is subject to the EAR.
Licensing Requirements due to a Country Sanction

• Comprehensive Embargo
  – Iran – § 746.7 & § 742.8
  – Cuba – § 746.2
• Sanctioned
  – Sudan – § 742.10
  – Syria – § 746.9 & Supp. No. 1 to part 736
  – N. Korea – § 746.4 & § 742.19
  – Russian Industry Sector Sanctions – § 746.5
  – Crimea region of Ukraine – § 746.6
• UN Arms Embargo – § 746.1(b)
• Iraq – § 746.3

General Prohibition 6, part 736
Know Your Customer: Screen

export.gov/Legal-Considerations
Licensing Requirements due to end use/end user controls

- End-use/end-user controls are in part 744 of the EAR.
  - Prohibited end-uses
  - Restrictions on certain ‘military end uses’ in the PRC or for a ‘military end use’ or ‘military end user’ in Russia or Venezuela (§ 744.21)

- Supplement No. 2 to part 744 – List of Items Subject to the Military End-Use License Requirement of § 744.21

General Prohibition 5, part 736
Tips for the Commerce Control List

• The Order of Review requires you to first confirm your item is not controlled under the International Traffic in Arms Regulations (ITAR).

• There is an Alphabetical Index to the Commerce Control List (CCL) – only on the BIS website; not exhaustive

• Licensing requirements beyond the CCL: based on destinations, parties to the transaction, activities, and knowledge of the end-use/end-user.
  
  – Check licensing requirements for sanctioned countries: General Prohibition 6, EAR part 736.
  
  – See “Know Your Customer” and “Red Flags” guidance (EAR part 732, Supplement 3)
  
  – Check licensing requirements based on end-use/end-user: General Prohibition 5, EAR part 736 and part 744.
Contact Information

• Office of Exporter Services:

<table>
<thead>
<tr>
<th>Washington, D.C.</th>
<th>Western Regional Office, Irvine, CA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Counseling: (202) 482-4811</td>
<td>Counseling: (949) 660-0144</td>
</tr>
<tr>
<td>e-mail: <a href="mailto:ECDOEXS@bis.doc.gov">ECDOEXS@bis.doc.gov</a></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Northern California Branch, San Jose, CA</td>
</tr>
<tr>
<td></td>
<td>Counseling: (408) 998-8806</td>
</tr>
</tbody>
</table>

• Encryption Help Line: (202) 482-0707
• Export Enforcement Hotline: 1-800-424-2980

www.bis.doc.gov                                      https://www.export.gov/Legal-Considerations