

## **TRANSACTIONS WITH THE REPUBLIC OF CUBA**

The following information is provided as a general overview of the regulations administered by the Bureau of Industry and Security (BIS) of the United States Department of Commerce in Washington, D.C., and by the Office of Foreign Assets Control (OFAC) of the United States Department of the Treasury in Washington, D.C. For specific information, including legal opinion, requests should be made directly to the BIS or OFAC.

The OFAC administers the regulations governing *travel and financial transactions* with respect to the Republic of Cuba by individuals subject to United States law.

Mr. R. Richard Newcomb  
Director  
Office of Foreign Assets Control  
United States Department of the Treasury  
Washington, D.C. 20220  
Telephone: (202) 622-2480  
Facsimile: (202) 622-1657  
Internet: <http://www.treas.gov/ofac>

The Bureau of Industry and Security (BIS) of the United States Department of Commerce in Washington, D.C., administers regulations governing the *export of products* (including donations and general aviation aircraft temporary sojourn licenses) to the Republic of Cuba by individuals subject to United States law and by businesses subject to United States law. However, Non-United States-based subsidiaries of United States-based companies must apply to the OFAC for licenses to export products to the Republic of Cuba. Applicants seeking to export products (including temporary sojourn licenses) to the Republic of Cuba (other than informational materials, which are exempt from licensing requirements) are required to use the Multipurpose Application Form BXA-748P which can be obtained by contacting the Office of Exporter Services at telephone (202) 482-4811 press 0 or on the Internet at <http://www.bis.doc.gov>.

Mr. John Bolsteins  
Office of Strategic Trade and Foreign Policy Controls  
Bureau of Industry and Security  
United States Department of Commerce  
Washington, D.C. 20230  
Telephone: (202) 482-3283  
Facsimile: (202) 482-6088  
E-mail: [jbolstei@bis.doc.gov](mailto:jbolstei@bis.doc.gov)  
Internet: <http://www.bis.doc.gov>

The Office of Cuban Affairs at the United States Department of State in Washington, D.C., *establishes the policies* by which the OFAC and the BIS *interpret the regulations by which laws are enforced*.

Mr. Kevin Whitaker  
Coordinator  
Office of Cuban Affairs  
United States Department of State  
Washington, D.C. 20520  
Telephone: (202) 647-9273  
Facsimile: (202) 736-4476  
E-mail: WhitakerKM@state.gov  
Internet: <http://www.state.gov>

Individuals subject to United States law can travel to the Republic of Cuba for commercial purposes under the auspice of a specific license from the OFAC. Please refer to OFAC Internet site: <http://www.treas.gov/ofac> for additional information on specific travel categories.

### **OFAC Specific License:**

An individual subject to United States law traveling to the Republic of Cuba under the auspice of an OFAC Specific License is required to obtain a written license from the OFAC. An individual(s) subject to United States law who wishes to travel to the Republic of Cuba under the auspice of an OFAC Specific License should write a letter to the OFAC and include the following information: a) the date of the planned visit and the length of stay b) the specific purpose(s) of the visit c) name(s), title(s) of individual(s), and background(s) of the traveler. Please refer to OFAC Internet site: <http://www.treas.gov/ofac> for additional information on specific travel categories.

|   |
|---|
| Individuals subject to United States law who wish to identify commercial opportunities for agricultural products, air charter services, artwork, communications, cultural events, entertainment, exhibitions, farm supplies, food sales, informational materials, intellectual property issues, medical equipment, medical instruments, medical supplies, medicated products, medicines, money transfer services, package delivery services, pharmaceuticals, publications, telecommunications; trade shows, and travel services. |
|---|

|   |
|---|
| Individuals subject to United States law who wish to engage in a public exhibition, such as a concert, trade show, etc. |
|---|

### **Spending Money In Cuba:**

On 1 August 2002, the Office of Allowances within the Office of Operations of the Bureau of Administration of the Under Secretary of Management of the United States Department of State in Washington, D.C., increased the Per Diem rate for individuals subject to United States law traveling to the Republic of Cuba. Per Diem rates within the Republic of Cuba are based upon the Per Diem Rate For Foreign Areas issued by the United States Department of State. Individuals subject to United States law traveling to the Republic of Cuba (with the exception of individuals subject to United States law traveling to the Republic of Cuba on a “fully hosted” basis) under the auspice of a specific license from the OFAC or a general license from the OFAC are authorized to spend up to **US\$166.00 per day for hotels, meals, ground transportation, etc. (the cost of telephone calls are exempt from the Per Diem)**. The OFAC also generally authorizes the expenditure of “additional money for transactions directly related to the activities for which” a license was issued. Individuals who are full-time journalists traveling to the Republic of Cuba under a general license from the OFAC are permitted to spend above the US\$166.00 for expenses “*incidental to journalist activities.*” Exemptions to the US\$166.00 per day authorization can be requested from the OFAC. “Fully hosted” travelers are not subject to spending limits while within the Republic of Cuba.

|   |
|---|
| A change in the Per Diem reflects an evaluation by the United States Interests Section in the city of |
|---|

|   |
|---|
| Havana, Republic of Cuba (which represents the United States Department of State within the Republic of Cuba) that prices within the Republic of Cuba have changed.   |
| Since June 1999, individuals subject to United States law traveling to the Republic of Cuba under a general license from the OFAC or a specific license from the OFAC have been permitted to spend at parity with representatives of the United States government traveling to the Republic of Cuba on official business.   |
| From 1985 through May 1999, individuals (non-employees of the United States government) subject to United States law traveling to the Republic of Cuba under a general license from the OFAC or a specific license from the OFAC were permitted to spend US\$100.00 per day (no distinction with respect to lodging and meals).   |
| The United States Interests Section has negotiated discount hotel rates with five hotels in the city of Havana including <b>1)</b> Republic of Cuba government-owned hotels managed by Republic of Cuba government-operated companies and <b>2)</b> Republic of Cuba government-owned hotels managed by non-Republic of Cuba-based companies. The discounted hotel rates are only for use by United States government personnel visiting the Republic of Cuba on official business. |

The Per Diem rate generally reflects reduced discounted hotel rates obtained by the United States Interests Section for use by United States government personnel visiting the Republic of Cuba on official business, not the retail hotel rates generally paid by individuals subject to United States law traveling to the Republic of Cuba under the auspice of a general license from the OFAC or a specific license from the OFAC who are not United States government personnel. The United States Department of State has thus far refused to recalibrate the Per Diem rate to reflect parity with retail hotel rates. Expenditures within the Per Diem are not required to be divided as per the following categories:

| Effective Date                     | Lodging    | Meals & Incidentals | Total Per Diem | % Change From Previous Year |
|------------------------------------|------------|---------------------|----------------|-----------------------------|
| 1 August 2002- Present             | US\$85.00  | US\$81.00           | US\$166.00     | +5.1%                       |
| 1 July 2000 to 1 August 2002       | US\$80.00  | US\$78.00           | US\$158.00     | -24%                        |
| 1 June 1999 to 1 July 2000         | US\$113.00 | US\$82.00           | US\$195.00     | +6.16%                      |
| 1 December 1996 to 1 June 1999     | US\$102.00 | US\$81.00           | US\$183.00     | +15.85%                     |
| 1 November 1995 to 1 December 1996 | US\$90.00  | US\$64.00           | US\$154.00     | -0-                         |

The following is the Per Diem values in effect since 1 July 1992 for travel to areas within the Republic of Cuba other than the city of Havana and the United States territory at Guantanamo Bay, Republic of Cuba.

| Effective Date         | Lodging   | Meals & Incidentals | Total Per Diem | % Change From Previous Year |
|------------------------|-----------|---------------------|----------------|-----------------------------|
| 1 July 1992 to Present | US\$69.00 | US\$56.00           | US\$125.00     | -0-                         |

Individuals subject to United States law traveling to the Republic of Cuba under the auspices of either an OFAC General License (excluding “fully hosted” travelers subject to United States law) or an OFAC Specific License may return from the Republic of Cuba to the United States with up to US\$100.00 worth of Republic of Cuba-origin products (such as cigars, rum, tee-shirts, crafts, etc.) every six months for their personal use.

|  |
|--|
| For cigars, the United States Customs Service permits up to 100 cigars, but the total value must not exceed US\$100.00. For example, if a traveler returns with 100 cigars which cost US\$1.00 each, the traveler would not be permitted to bring any additional Republic of Cuba-origin products (such as |
|--|

rum, but not including informational materials such as books, newspapers, magazines, music products, and artwork) because the total value of imported Republic of Cuba-origin products would then exceed US\$100.00. If a traveler purchased 100 cigars for US\$50.00, then the traveler would have an additional US\$50.00 to spend on other Republic of Cuba origin products such as rum, tee-shirts, crafts, etc. Travelers subject to United States law should retain a receipt showing the amount paid for all Republic of Cuba-origin products.

Individuals subject to United States law traveling on a “**fully hosted**” basis. “Fully hosted” travel requires that the individual subject to United States law who is traveling to the Republic of Cuba does not spend any funds of their own while within the Republic of Cuba. Funds used to make payments for hotels, meals, ground transportation, sundries, etc., must originate from **a)** an entity within the Republic of Cuba **b)** an entity within another country or **c)** an individual within another country. The use of indirect transfers is not permitted. For example, the individual subject to United States law sends funds to another country within which a relative, friend, or business associate resides. The relative, friend, or business associate then makes payments within the Republic of Cuba on behalf of the individual subject to United States law. “Fully hosted” individuals subject to United States law traveling to the Republic of Cuba and departing from the Republic of Cuba are not permitted to use their own funds for the purchase of an airline ticket or a cruise ship ticket for such travel if the airline or cruise ship is controlled by an entity within the Republic of Cuba. For example, a “fully hosted” traveler subject to United States law is not permitted to use their own funds to purchase an airline ticket on Cubana Airlines to travel to the Republic of Cuba, but the traveler could use their own funds to purchase an airline ticket on Mexicana, Air Jamaica, Lacs, Iberia, etc. A “Fully hosted” traveler subject to United States law may return from the Republic of Cuba to the United States with an unlimited value of artwork and informational materials (books, magazines, music tapes, CD ROM’s, photographs, films, posters, phonograph records, microfilm, microfiche, compact disks, and newswire feed, etc.) A “Fully hosted” traveler subject to United States law may not return from the Republic of Cuba to the United States with Republic of Cuba-origin products such as those authorized for individuals subject to United States law who travel to the Republic of Cuba under an OFAC General License or an OFAC Specific License such as cigars, , coffee, rum, tee-shirts, crafts, etc. A “Fully hosted” traveler subject to United States law may return from the Republic of Cuba to the United States with any gift received from a Republic of Cuba national. However, the gift must remain with the United States Customs Service at the point of entry into the United States. The “fully hosted” traveler subject to United States law may then request a license from the OFAC to take possession of the gift.

### **“FULLY HOSTED” TRAVELERS WARNING**

The marketing of “*fully hosted*” gatherings to the Republic of Cuba has been subject to protracted scrutiny by the United States government, United States Congress, and by media organizations.

Although “*fully hosted*” travel to the Republic of Cuba is authorized by the OFAC, there is a written regulatory position by the OFAC that an individual subject to United States law having visited the Republic of Cuba on a “*fully hosted*” basis is presumed to be in violation of regulations administered by the OFAC.

Previously, the OFAC viewed an individual subject to United States law having visited the Republic of Cuba on a “*fully hosted*” basis to be in compliance with regulations administered by the OFAC. There have been occasions when the presumption of violation by the OFAC has not been disclosed in marketing materials for “*fully hosted*” visits to the Republic of Cuba.

The United States Customs Service and the United States Immigration and Naturalization Service

(INS) have reportedly *increased enforcement* of existing OFAC regulations (especially with respect to “*fully hosted*” travelers) at entry points throughout the United States and at pre-clearance entry point operations in other countries.

There are categories under which the OFAC will provide specific licenses (some valid for multiple visits during a one year period) to representatives of United States-based companies to visit the Republic of Cuba. Extreme caution should be taken when considering a “*fully hosted*” visit to the Republic of Cuba.

|   |
|---|
| The OFAC has provided licenses (in some cases issued within twenty-four hours; normal processing is 14 to 30 days) to visit the Republic of Cuba to identify commercial opportunities for agricultural products, air charter services, artwork, communications, cultural events, entertainment, exhibitions, farm supplies, food sales, informational materials, medical equipment, medical instruments, medical supplies, medicated products, medicines, money transfer services, package delivery services, pharmaceuticals, publications, telecommunications; and travel services. |
|---|

*Criminal penalties for violations range up to 10 years in prison, US\$1,000,000.00 in company fines, and US\$250,000.00 in individual fines. Civil penalties for violations range up to US\$55,000.00.*

An individual subject to United States law traveling to the Republic of Cuba under the “*fully hosted*” general license provision is not permitted to travel to the Republic of Cuba directly from the United States. A “*fully hosted*” traveler must travel to the Republic of Cuba by way of third countries.

Officials at the United States Department of State, officials at the OFAC, officers of the United States Customs Service, and officers of the Immigration and Naturalization Service, have confirmed that any individual subject to United States law returning to the United States after visiting the Republic of Cuba on a “*fully hosted basis*” is being subjected to increased scrutiny, especially high profile groups, such as individuals attending “*fully hosted*” conferences.

The term “*fully hosted*” means that all expenses within the Republic of Cuba (including travel to and from the Republic of Cuba if using a Republic of Cuba government-operated air carrier, for example, Cubana Airlines) on behalf of the individual subject to United States law are paid for by an individual or entity not subject to United States law. No direct or indirect payments are permitted. A “*fully hosted*” traveler may return to the United States with an unlimited amount of informational materials (books, magazines, newspapers, music tapes, etc.) and an unlimited amount of artwork. A “*fully hosted*” traveler may not return to the United States with any other Republic of Cuba-produced products (such as cigars, rum, coffee, tee-shirts, etc.).

The OFAC and the United States Customs Service confirm that “*fully hosted*” travelers should expect the following:

|   |
|---|
| <i>A letter from an individual or entity not subject to United States law (or a letter from a United States-based law firm) confirming that the individual subject to United States law was “fully hosted” will not be accepted as “proof” that a visit was “fully hosted.”</i> |
|---|

|  |
|--|
| <i>The individual subject to United States law will be required to produce receipts for all daily expenses within the Republic of Cuba which demonstrate that all of the expenses were paid by an individual or entity not subject to United States law.</i> |
|--|

|  |
|--|
| <i>At the entry point to the United States, the United States Customs Service may make a photocopy of the passport of the individual subject to United States law. The passport number may be entered in a permanent database.</i> |
|--|

|   |
|---|
| <i>The individual subject to United States law will be required to submit a signed letter confirming, under penalty of perjury, that all daily expenses incurred within the Republic of Cuba on behalf of</i> |
|---|

*the individual subject to United States law were paid for by an individual or entity not subject to United States law.*

*The OFAC may send a letter to the individual subject to United States law requiring additional proof that the visit to the Republic of Cuba was "fully hosted."*

Individuals subject to United States law traveling to the Republic of Cuba should only use travel agents that have been licensed by the OFAC.

**Travel Visas From The Republic Of Cuba:**

Individuals subject to United States law visiting Republic of Cuba for commercial purposes should obtain a visa from the Cuban Interests Section in Washington, D.C.

His Excellency  
Dagoberto Rodriguez  
Cuban Interests Section  
2630 16th Street, Northwest  
Washington, D.C. 20009  
Telephone: (202) 797-8518 or (202) 797-8522  
Facsimile: (202) 797-8521

**Travel Arrangements To/From/Within The Republic Of Cuba:**

Individuals subject to United States law traveling to the Republic of Cuba should only use travel agents which have a Travel Service Provider (TSP) license from the OFAC:

Tico Travel  
161 East Commercial Boulevard  
Fort Lauderdale, Florida 33334  
Telephone: (954) 493-5335 or (800) 493-8426  
Facsimile: (954) 493-8466  
E-mail: tico@gate.net  
Internet: <http://www.destinationcuba.com>

Gulfstream International Airlines, Inc.  
Suite 400  
1815 Griffin Road  
Dania, Florida 33004  
Telephone: (305) 871-0526 or (954) 266-3000  
Facsimile: (305) 477-4260 or (954) 266-3030  
E-mail: [ctruji@gulfstreamair.com](mailto:ctruji@gulfstreamair.com)  
Internet: <http://www.gulfstreamair.com>