Cross Border Issues

Wednesday, January 23, 2013 | 1:15 p.m. – 2:30 p.m.

PRESENTED BY:
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Jose Moreno, Pegasus Flight Support
Scott O’Brien, National Business Aviation Association
Eric Rodriguez, U.S. Customs & Border Control
U.S. Customs

Phil Linebaugh
International Trip Planning Services, LLC (ITPS)
Customs Notification – PT91

- Pre-notification
- Update
- Required Documents
  - Customs Decs
  - Gen Dec
  - Confirmation of EAPIS Submission
  - Current Customs Decal
Customs Notification – PT135

- Outbound as well as Inbound
- Pre-notification
- Update
- Required Documents
  - Customs Decs *(Must be stamped prior to departure)*
  - Gen Dec
  - Confirmation of EAPIS Submission
  - Current Customs Decal
  - Customs Bond
  - Crew Declarations
  - Aircraft / Vessel Report
Agriculture

- Don’t forget to notify Agriculture
- Aircraft must be “de-catered”
- Secure Trash
Immigration

• Can be accomplished by Customs Officials

• Ensure you ask!!!

• Officers require special equipment to clear foreign nationals

• May not be available at all locations
E-APIS

• PART 91 different from PART 135
  – Added fields to eliminate CF178
• UNEDdifact Format
  – A standard Electronic Data Interchange (EDI) messaging format accepted by the UN
  – Designed to accompany all nations, for future use
• Must be submitted both prior to departure from US and arrival into the US
• Safe to have print-out of submission and acknowledgement
Types of Customs Airports

• Designated AOE
  – Required to stop at approved airports when travelling from south of 30 degrees north

• Landing Rights Airport
  – Usually requires 24 hours prior notice

• User Fee AOE
  – Additional costs

• International AOE
  – 24 hour customs availability
  – 1 hour notification required
30 Degree North Customs Designated Airports

- Required if flying from locations South of 30 degrees North
- Overall purpose is to stem the flow of illegal narcotics arriving from South of the U.S. Border
- A “Notice of Intended Arrival” must be filed in compliance with these special reporting requirements
- Can only be forgone with a Border Overflight Exemption (BOE)
Border Overflight Exemptions

The Border Overflight Exemption (BOE) allows you to overfly the Designated Airports and proceed to your desired destination directly.

Strict Rules Apply

– Listed Departure and Arrival Cities
– Approved Crew and Pax must be onboard
– Flight Attendants: Crew or Passengers???

Types of BOE’s

– Annual / Term
  • Available at all approved airports with a Customs Office
– One Time / Single
  • Available only at Selected Airports
Passport Requirements

ALL persons, including citizens of the United States, traveling by air are required to present a passport, upon arrival, at an International Airport of Entry.

Including Children, regardless of age
Visa Requirements

• Contrary to popular belief, all foreign visitors (except Canadians) MUST have a Visa when arriving on a corporate or charter aircraft.

• Exceptions:
  – When arriving on an airline, a Visa Waiver can be issued to preclude requiring a Visa.
  – If the company owning the aircraft has completed the requirements and is a participant of the Visa Waiver Pilot Program.
Visa Waiver Program

What is it???

• The Visa Waiver Program enables citizens of certain countries to travel to the United States for tourism or business for 90 days or less without obtaining a U.S. Visa.

• Operators must be in possession of a signed agreement with DHS to act as a Signatory Carrier in the Visa Waiver Program.

• 27 countries are participants at this time. The passenger must hold a valid passport of one of the participating countries.

• Side trips to “contiguous countries” acceptable, with restrictions
Mexico - 
Permits, Cabotage, Air Navigation / SENEAM

Jose A. Moreno
Pegasus Flight Support
Mexico Cross-Border Issues

Permits

• International Private
  – Individuals, Corporations (One Time / Annual)

• Air Taxi / Supplemental On-Demand International (Commercial)
  – Foreign Companies
  – One-Time (tail number and airport specific)
  – Blanket Permit (fleet)
  – Indefinite (until revoked, abandoned)

• Specialty Air Services
  – Aerial Photography, Surveys, Fire Extinction, Logging, Air Crane, etc.
Mexico Cross-Border Issues

Permits

• Air Taxi
  – Up to 15 passengers
  – 3,500 kgs of useful load

• Supplemental
  – Aircraft with capacity of 16 or more passengers
  – 3,501 kgs of useful load and up

• Air Ambulance
  – Sick or Injured Passengers
  – Medical Equipment / Personnel
Mexico Cross-Border Issues

Permits / Blanket

- Stage 1 - AOC / Covalidation US Opspecs
  - Aircraft under your D.085
  - Good for two years - currently

- Stage 2 – Blanket Permit
  - Indefinite
Mexico Cross-Border Issues

Cabotage Rules

- Contained in the Regulations of the Civil Aviation Law
  - Articles 2, 11, 12, 13, and 32

- Definition
  - The paid (money, specie, or counter-service) of air transportation of passengers, cargo, mail, or a combination of these, between two or more points within Mexican territory
Mexico Cross-Border Issues

Cabotage Rules

• Air Taxi (Commercial) Considerations
  – Air Transportation between one international location and **ONE** location in Mexico (included in your permit)
  – Operators can only take passengers back to an international location that they had previously flown in, without making cabotage (prior consideration).

• Air Ambulance
  – Same restrictions as above
Mexico Cross-Border Issues

Cabotage Rules

• Private Aircraft - Personal, Corporate (owned and operated)
  – Free to operate within the country
  – Not subject to passenger nationalities

• Part 91 flights by aircraft listed under a 135 Certificate
  – Not registered to operator
  – Owner on-board
  – Letter or Permission to fly the plane
  – Radio License
  – Private Use Mexican Insurance
Mexico Cross-Border Issues

Air Navigation

• Operated by SENEAM
  – Entity reporting to the Secretary of Transportation
  – Stands for Services to Navigation in Mexican Airspace “en Español”

• Fees
  – Overflights
  – ATC Services / Air Navigation
  – Airport Extensions
Mexico Cross-Border Issues

Air Navigation

• Overflights
  – Self-Assessed Fee
  – Monthly Report

• International Operations (landing in Mexico)
  – Fuel Uplift
  – Choice of flat fee or flown kilometer

• Airport Extensions
  – Airport early opening or late closure
## Mexico Cross-Border Issues

### Air Navigation / Fees

<table>
<thead>
<tr>
<th>Size</th>
<th>Wingspan</th>
<th>Overflights (flown km)</th>
<th>Flights (fuel flat fee)</th>
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</table>
Mexico Cross-Border Issues

Air Navigation

• SENEAM Black List
  – Cancels ATC Privileges
  – Goes back up to 10 years
  – Is registered owner / operator / vendor based
  – Appoint Representative
  – Register for User ID
  – Keep your FLEET updated
  – Monthly Reports / Payment
  – “Check” tail numbers with your service provider prior to a flight
Canada & Cabotage Restrictions

Scott O’Brien
National Business Aviation Association
Cabotage: Definition

• Definition of cabotage (U.S.):
  – The carriage by non-U.S. operators, including Canadian carriers, of local traffic – *i.e.* passengers originating at one U.S. point and terminating at another U.S. point – for compensation or hire
Cabotage: Definition

• Definition of cabotage (Wikipedia):
  – Cabotage is the transport of goods or passengers between two points in the same country by a vessel or an aircraft registered in another country.
  – Originally a shipping term, cabotage now also covers aviation, railways, and road transport. Cabotage is "trade or navigation in coastal waters, or, the exclusive right of a country to operate the air traffic within its territory".
Guidance Material: Canada

• Memorandum D2-1-1
  – Temporary Importation of Baggage and Conveyances by Non-Residents

• Memorandum D3-2-1
  – International Commercial Air Traffic and Conveyance Reporting

http://www.nbaa.org/member/ops/intl/customsregulatory/cabotage/
Key Concepts in Canada

• “Incidental Traffic” – Private

• “Continuous International Journey” – Private and Commercial
2. A foreign non-tax paid aircraft involved in international commercial transportation is restricted to international flights from a point abroad to a point or points in Canada and return to a point abroad.

The carriage of Canadian residents to, and their arrival from, foreign destinations is permitted provided the flight is limited to international service.

Any foreign aircraft that ceases to be involved in international commercial transportation while in Canadian airspace must be immediately reported to the CBSA and formally accounted for as it is deemed to have been imported.
47. However,

- one-way movements into Canada to a customs-authorized airport
- and one-way movements out of Canada from a customs-authorized airport
- may be made without regard to the residential status of the passengers carried or the requirements of this Memorandum, provided no local use is made of the aircraft while it is in Canada.
3. Under no circumstances may a foreign non-tax paid empty aircraft enter Canada for the sole purpose of carrying passengers or goods point-to-point in Canada.

In this situation, it is deemed that the aircraft is imported for that specific purpose and is not performing an international air service. If the aircraft is deemed to have been imported; all duties and taxes are to be paid immediately.

Furthermore, any unauthorized use of a foreign non-tax paid aircraft in Canada could result in the issuance of monetary penalties or the seizure and forfeiture of the aircraft.
Key Concepts in Canada

Memorandum D2-1-1

46. Residents of Canada may accompany non-resident company personnel/clientele on movements from point to point in Canada

• only if their presence on board the aircraft is incidental to the primary purpose of the trip and no remuneration is involved.

• In other words, each movement of the aircraft in Canada must be for the purpose of transporting or accommodating an eligible non-resident user.

• In any case where the aircraft is used to travel from point to point in Canada solely for the movement or accommodation of a resident, the aircraft is no longer eligible for the provisions of tariff item No. 9803.00.00 and becomes subject to assessment in the usual manner.
Key Concepts in Canada

Memorandum D2-1-1

45. Foreign-owned corporate aircraft may be used to transport non-resident company personnel/clientele into, out of, and within Canada without any restrictions on itinerary.

• All movements must be for the benefit of, or on behalf of, a non-resident of Canada, and any sales or subscriptions to be solicited must be on behalf of a business based outside of Canada.

• In addition, no goods or passengers may be transported for compensation, nor may goods be transported for sale.
Key Concepts in Canada

Memorandum D3-2-1

4. From time to time, non-tax paid foreign aircraft are chartered by groups of non-residents who wish to visit several Canadian centers.

• Normally, the point-to-point carriage of passengers by a non-tax paid non-Canadian aircraft would be considered an unauthorized movement.

• However, such movements are allowed if the passengers originated outside Canada and are initially brought into Canada by a carrier that is operating under a continuing tour charter.
Cabotage Scenarios

- FAR Part 91 operations into, through and out of Canada
- U.S. corporation owns aircraft registered in U.S. and operated on worldwide basis for U.S. company/foreign subsidiaries
- Aircraft either operated by the U.S. corporation, or on a management agreement with a FAR 135 operator
- No charter or commercial operations conducted
- U.S. corporation has Canadian subsidiary which does not have its own aircraft
- U.S. fleet utilized both directly by U.S. parent and also to support Canadian subsidiary - all flights dispatched from U.S.
Scenario 1

• The U.S. aircraft brings officials of the parent corporation to Canada for business meetings, and returns after the meeting.
Scenario 2

- The U.S. registered aircraft flies on an empty ferry from the U.S. base, to a Canadian point to pick up personnel of the Canadian subsidiary, and transport them back to the U.S. corporate base for business meetings.
Scenario 3

- In scenario 2, the group that originates at the Canadian point is conveyed to a second Canadian point, prior to the outbound movement to the U.S. Or, on the return flight to the original pick up point in Canada, the aircraft stops at an intermediate point in Canada, prior to delivery of the group to the originating Canadian point.
Scenario 4

- Flight originates at U.S. base with only the U.S. company President on board, picks up the President of the Canadian operation at a first point in Canada which is not the base of the Canadian operations. It continues to a second point in Canada for meetings, and returns the Canadian President back to the Canadian base of operations, and then departs for the U.S. base with the U.S. President on board.
Scenario 5

- Flight originates at U.S. base to Canadian subsidiary base with two U.S. company officials on board and picks up six Canadian officials. Continues to several Canadian points for inspection of Canadian operations. Aircraft returns to Canadian originating point to offload Canadian originating traffic, and outbounds to U.S. base with the two U.S. originating passengers.
Scenario 6

- During the above trip, the two U.S. originating company officials are required to return to the U.S. base, and do so by commercial airline. The U.S. privately registered executive aircraft continues the Canadian operations tour, and delivers the Canadian originating traffic back to the Canadian point of origin, prior to departing empty to the U.S. base.
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