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Practice Update

Bringing Money Into the U.S.: Declare It or Risk Serious Consequences

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Bringing money, whether cash or other forms, into or out of the United States is generally legal, no matter the amount. However, the U.S. government requires you to report large sums. If you are transporting, attempting to transport, or causing to be transported (even by mail) a total amount exceeding $10,000 (or the equivalent in foreign currency) at one time into or out of the U.S., you must file a report. This report is called FinCEN Form 105. This rule is mandatory.

The reporting rule covers more than just physical cash. It includes:

- **Currency:** This is the physical coin and paper money from the U.S. or any other country that is recognized as legal money and is regularly used for buying and selling.
- **Monetary Instruments:** This is a broader category. It includes U.S. and foreign coins and currency, traveler's checks, and certain financial papers like checks, promissory notes, money orders, securities, or stock that are easily transferable to another person.

The timing and method of your declaration is crucial:

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- **If you are traveling with the money:** You must file FinCEN Form 105 with a U.S. Customs and Border Protection (CBP) officer at the time you enter or leave the United States.
- **If the money is mailed or shipped:** The person sending it must file the form by mail on or before the date it is sent.
- **If you receive money in the U.S. that was sent from abroad:** You must file FinCEN Form 105 within 15 days after you receive it, either by mail or with a CBP officer.

You are required to file this report completely and truthfully. Failing to do so does not mean you are excused from liability.

More Than Just Declaring: The Rules for Transporting Money for Others

Beyond simply declaring large sums, there is another layer of rules if you are transporting money for other people, especially as a regular activity or business. This often falls under "money transmission."

If you operate a business that sends money from one person to another, from one place to another, or across borders — whether through a formal system like a wire service or an informal one like cash carrying — you are considered a "money transmitter." In the U.S., money transmitters are regulated businesses. This means they must register with the Financial Crimes Enforcement Network (FinCEN) as a Money Services Business (MSB) and often need a separate license from the state where they operate, such as Florida.

Carrying cash for others, especially repeatedly, can be considered operating as a money transmitter or part of an "Informal Value Transfer System" (IVTS). Operating as a money transmitter without the required federal registration and state license is illegal and considered operating an unlicensed money transmitting business.

Informal Transfers and Real Consequences

A recent case illustrates the serious risks involved when people use informal methods and fail to declare. A woman arriving at Tampa International Airport from an international flight was stopped after denying she had more than the $10,000 reporting limit and claiming she had nothing to declare. During inspections, agents found over $100,000 in U.S. currency hidden in her luggage and on her person.

She admitted to flying frequently for the specific purpose of smuggling cash into the U.S. and knew that bringing bulk cash without reporting it was against the law. Her flight history showed she had made 45 trips in just over eight months.

This case highlights several points:

- **Failure to Declare:** She was charged because she transported over $10,000 and did not file the required FinCEN Form 105.
- **Informal Money Transfer:** Sending money between countries involves informal channels like hand-carrying cash or using "money mules." These informal systems are known as Informal Value Transfer Systems (IVTS). People might use IVTS to avoid fees, get better exchange rates, or, importantly, to avoid government reporting rules and oversight.
- **Operating Without a License:** Because the woman was reportedly transporting cash repeatedly as a method of smuggling, she was likely engaging in the activity of money transmission. Doing this without registering with FinCEN as an MSB and getting the necessary state licenses is operating an illegal, unlicensed money transmitting business.

- **Severe Penalties:** As a result of her actions, the woman was charged in federal court and sentenced to five months in federal prison. The court also ordered her to pay a $10,000 fine and to forfeit the more than $100,000 she had attempted to smuggle. The initial complaint mentioned she faced criminal charges with a potential maximum penalty of five years in federal prison. This demonstrates that failing to declare and engaging in unlicensed money transmission can lead to significant penalties and time behind bars.

While IVTS can provide services and are sometimes used for legitimate reasons, operating them in the U.S. requires complying with strict regulations, including registration as a money services business and having an anti-money laundering program.

Just Declare It

Whether you are carrying money for yourself or for others, if the total amount is over $10,000, you must declare it by filing FinCEN Form 105 at the required time. If you are transporting money for other people as a business, you likely need to be a federally registered and state-licensed money transmitter.

Failure to comply with these rules can lead to civil and criminal penalties, including significant fines and imprisonment, and the possible forfeiture of the money itself. It is essential to understand and follow these regulations when moving money across U.S. borders.
