

Cross Border Business Law Blog

Inspection of Personal Electronic Devices Conducted by U.S. Customs and Border Protection Officers on the Rise

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International travelers from and to the United States may increasingly encounter an inspection of personal electronic devices conducted by U.S. Customs and Border Protection (“CBP”) officers. The selection may be for a variety of reasons, which may include that the traveler does not have the proper travel document or visa; the person has previously violated U.S. laws; or the person might be selected randomly for a search.

Border searches of electronic devices may include searches of information stored on the device when it is presented for inspection or during its detention by CBP for an inbound or outbound border inspection. It is worth noting that CBP has authority to detain and search electronic devices in the absence of owners. CBP may also conduct an advanced search in which the device is connected to external equipment for review, copy, and/or analyze its contents.

However, the search can include an examination of only the information that is stored on the device, and not on data remotely stored and accessible through apps or the mobile operating system via a network connection. To avoid retrieving or accessing information stored remotely and not otherwise present on the device, CBP directives instruct its officers to either request that the traveler disable connectivity to any network, or where warranted by national security, law enforcement, officer safety, etc., CBP officers can disable the network connection.

Passcodes should only be used to facilitate the inspection of devices and should be deleted or destroyed when no longer needed to facilitate the search.

Information on the device that is normally protected by law as privileged such as medical records, attorney-client privileged information, trade secrets, and other sensitive information, such as work-related information carried by journalists should be treated as confidential and according to applicable federal law and government policy.

Tags: border searches, CBP, international travelers, personal electronic devices, travel, U.S. Customs and Border Protection officers