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United States – Visa Waiver Program Travelers under ESTA Must Have e-Passport

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flash Alert

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As part of the *Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015*, Visa Waiver Program (VWP) travelers traveling to the United States with an Electronic System for Travel Authorization (ESTA) must have an e-Passport as of April 1, 2016.¹ Significant changes to the VWP were included in an omnibus spending bill (H.R.2029)² passed by the U.S. Congress on December 18, 2015.³

Why This Matters

This law places new restrictions on the VWP. U.S. Customs and Border Protection (CBP) encourages travelers to check their passports and their current ESTA status to establish they are in compliance with the new requirement. As a reminder, if a traveler has obtained a new passport, he or she must submit a new ESTA application.

These and other constraints introduced by the amendments should be noted by global mobility professionals, immigration advisers, and those traveling to the United States under the VWP. Should a traveler not be in compliance, he or she could be prevented from travelling into the U.S. and/or stopped at the port of entry.

Background

The VWP permits individuals of certain pre-approved countries⁴ to enter the U.S. without first obtaining a visitor visa (B-1/B-2) while overseas. Individuals seeking to benefit from the program must first apply for approval with CBP through the ESTA portal⁵. If the traveler will be seeking entry into the U.S. after April 1, 2016, with a valid ESTA, the new regulations require that the traveler have a valid e-Passport.

Changes under the Amendments

Under the *Terrorist Travel Prevention and Visa Waiver Program Reform*, travelers who intend to enter the U.S. with a valid ESTA must also have a valid e-Passport. If the traveler however intends to enter the U.S. with a non-immigrant visa and not ESTA, an e-Passport is not required. See below as an example of a valid e-Passport.



Source: www.cbp.gov, "Clarifying the e-Passport Requirement for Visa Waiver Program Travelers."

An e-Passport is an enhanced secure passport with an embedded electronic chip. E-Passports are issued by the proper passport issuing authority and must meet international standards for securing and storing information corresponding to the passport and the passport bearer.

In addition, the amendments include other changes to the VWP to promote enhanced information sharing of terrorism and criminal data, and the use of INTERPOL databases and notices for border screening purposes.

Footnotes:

- 1 For additional information, see: <https://www.cbp.gov> or go to: https://help.cbp.gov/app/answers/detail/a_id/194/~/visa-waiver-program-update-2016 .
- 2 For H.R. 2029, *Consolidated Appropriations Act, 2016*, see the Library of Congress' Thomas Web site: <https://www.congress.gov/bill/114th-congress/house-bill/2029> .
- 3 For related coverage, see GMS [Flash Alert 2016-022](#), February 4, 2016.
- 4 For VWP countries, see: <https://travel.state.gov/content/visas/en/visit/visa-waiver-program.html> .
- 5 See: <https://esta.cbp.dhs.gov/esta/> .

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