

#### § 286.4

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commercial vessel employees on official business;

(c) Persons who are listed as foreign diplomats on the accreditation list maintained by the U.S. Department of State or who are in possession of a diplomatic visa (A-1 and 2, G-1 thru 4) valid for entry into the United States;

(d) Persons who are passengers on any commercial aircraft or commercial vessel owned or operated exclusively by the Government of the United States or a foreign government, including any agency or political subdivision thereof, so long as that aircraft or vessel is not transporting any persons or property for commercial purposes.

(e) Persons who are passengers on commercial aircraft or commercial vessels under contract to the U.S. Department of Defense, if they have been preinspected outside of the United States under a joint Service and U.S. Department of Defense military inspection program;

(f) Persons arriving on an aircraft or vessel due to an emergency or forced landing when the original destination of the aircraft or vessel was not the United States; and

(g) Persons transiting the United States who are not inspected by the Service. Transit without visa passengers who are inspected by the Service are not excepted from payment of the fee under this section.

[53 FR 5757, Feb. 26, 1988, as amended at 59 FR 49348, Sept. 28, 1994; 68 FR 4092, Jan. 28, 2003]

#### § 286.4 Fee collection responsibility.

(a) It is the responsibility of the air or sea carriers, travel agents, tour wholesalers, or other parties, which issue tickets or documents for transportation on or after December 1, 1986, to collect the fee set forth in § 286.2 of this part from all passengers transported to the United States who are not excepted under § 286.3 of this part.

(b) Tickets and documents for transportation shall be marked by the collector of the fee to indicate that the required fee has been collected. Such markings shall be in accordance with the procedures set forth in the ARC Industry Agents Handbook, the SATO Ticketing Handbook, or compatible

procedures set forth in the operations manual of individual collectors.

(c) It is the responsibility of the carrier transporting a passenger from the United States to collect the fee upon departure, if the passenger was not excepted under § 286.3 of this part and tickets or documents for transportation of the passenger do not reflect collection of the fee at the time of issuance. If at the time of departure such a passenger refuses to pay the fee, the carrier shall record the full name, complete address, nationality, passport number, and alien file number, if any, of the passenger and immediately notify the Associate Commissioner, Finance.

[53 FR 5757, Feb. 26, 1988, as amended at 59 FR 49349, Sept. 28, 1994]

#### § 286.5 Remittance and statement procedures.

(a) The air or sea carrier whose ticket stock or document for transportation reflects collection of the fee is responsible for remittance of the fee to the Service. The travel agent, tour wholesaler, or other entity, which issues their own non-carrier related ticket or document for transportation to an air or sea passenger who is not excepted from the fee pursuant to § 286.3 of this part, is responsible for remittance of the fee to the Service, unless by contract the carrier will remit the fee.

(b)(1) Fee remittances shall be sent to the Immigration and Naturalization Service, at a designated Treasury depository, for receipt no later than 31 days after the close of the calendar quarter in which the fees are collected, except the fourth quarter payment for fees collected shall be made on the date that is 10 days before the end of the U.S. Government's fiscal year, and the first quarter payment shall include any collections made in the preceding quarter that were not remitted with the previous payment. The fourth quarter payment shall include collections for the months of July and August. The fiscal year referenced is the U.S. Government's fiscal year which begins on October 1 and ends on September 30.

(2) Late payments will be subject to interest, penalty, and handling charges as provided in the Debt Collection Act

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of 1982 (31 U.S.C. 3717). Refunds by a remitter of fees collected in conjunction with unused tickets or documents for transportation shall be netted against the next subsequent remittance.

(c) Along with the remittance, as set forth in paragraph (b) of this section, each remitter making such remittance shall attach a statement which sets forth the following:

- (1) Name and address;
- (2) Taxpayer identification number;
- (3) Calendar quarter covered by the payment;
- (4) Interest and penalty charges; and
- (5) Total amount collected and remitted.

(d) Remittances shall be made in U.S. dollars by check or money order through a U.S. bank, to Assistant Commissioner, Office of Financial Management, INS.

(e) Annually, each U.S. based remitter, which retains an independent accountant and which remits \$10,000 or more in fees in any one calendar quarter, shall submit to the Assistant Commissioner, Financial Management a report from the independent accountant in accordance with the *Statement on Standards for Attestation Engagements* on the application of Passenger User Fee Collection and Remittance Procedures established by the American Institute of Certified Public Accountants and the Service, to the Assistant Commissioner, Financial Management. Each foreign-based remitter, which retains an independent accountant and which remits \$10,000 or more in fees in any one calendar quarter, shall submit a similar report to the Assistant Commissioner, Financial Management from the independent accountant in accordance with generally accepted accounting principles of their respective countries. These reports from the independent accountants are to be submitted for receipt by the Assistant Commissioner, Financial Management no later than ninety (90) days after the close of the fiscal year of each remitter. Each remitter, which does not retain an independent accountant or which does not remit \$10,000 or more in any one calendar quarter, shall certify under oath on each statement submitted pursuant to paragraph (c) of this section that they have complied

with the applicable statutes and regulations.

(f) The Commissioner reserves the right to conduct an independent audit of any collector or remitter not providing the report or certification required pursuant to paragraph (e) of this section or based upon other information indicating non-compliance in order to assure the accuracy of the remittances of fees collected and remitted and compliance with the applicable statutes and regulations.

(g) In order to enforce compliance with the provisions of this part, the Commissioner may issue a subpoena requiring the production of records, evidence, and witnesses pursuant to the procedures set forth in § 287.4 of this chapter. The authority to issue a subpoena pursuant to this section is limited to the Commissioner, Deputy Commissioner, Associate Commissioner for Management, Director for Program Inspection, all Regional Commissioners; and all District Directors.

[53 FR 5757, Feb. 26, 1988, as amended at 55 FR 729, Jan. 9, 1990; 59 FR 49348, 49349, Sept. 28, 1994; 63 FR 51272, Sept. 25, 1998]

### § 286.6 Maintenance of records.

Each collector and remitter shall maintain records necessary for the Service to verify the accuracy of fees collected and remitted and to otherwise determine compliance with the applicable statutes and regulations. Such records shall be maintained for a period of two years from the date of fee collection. Each remitter shall advise the Assistant Commissioner, Office of Financial Management of the name, address, and telephone number of a responsible officer who shall have the authority to verify and produce any records required to be maintained under this part. The Assistant Commissioner, Office of Financial Management shall be promptly notified of any changes of the responsible officer.

[53 FR 5757, Feb. 26, 1988, as amended at 59 FR 49349, Sept. 28, 1994; 63 FR 51272, Sept. 25, 1998]

### § 286.7 Penalties.

Failure of any air or sea carrier to comply with the provisions of section 286 of the Act and this part shall subject it to one or more of the following: