<p style="text-align:center">***De minimis* Rules** (of the minimum)
(§734.4 and Supplement No. 2 to part 734 of the EAR)</p>

- IF …
  - Foreign-made commodity incorporates controlled U.S.-origin commodities
  - Foreign-made commodity is 'bundled' with controlled U.S.-origin software,
  - Foreign-made software is commingled with controlled U.S.-origin software, or
  - Foreign-made technology is commingled with controlled U.S.-origin technology,

- THEN... it is subject to the EAR if the U.S.-origin controlled content exceeds:
  - 10% for Cuba, North Korea, Sudan, Syria & Iran
  - 25% for all other destinations

- **"Controlled content"** = US-origin items that require a license to the ultimate destination of the foreign product.
  - EAR99 items are considered "controlled content" for certain sanctioned countries.
  - Fair Market Value of the "controlled content" is needed to calculate *de minimis* percentage

  - **Content that you don't have to count**:
    - ‣ License Exception GBS or NLR eligible items
    - ‣ Foreign manufactured item is the 2nd incorporation of U.S. origin items

- **Content that is <u>not</u> eligible for de minimis treatment**
  - Certain U.S. origin components of high performance computers
  - Encryption 5E002, and encryption commodities and software that don't meet the eligibility criteria in §734.4(b)
  - QRS 11 if in commercial standby instrument system or commercial aircraft w/such system
  - Foreign made military commodities that incorporate cameras classified under ECCN 6A003.b.4.b

- **U.S. items are 'incorporated' when all of the following conditions are met:**
  - They are essential to the functioning of the foreign equipment,
  - They are customarily included in the sale of foreign-made items, and
  - They are reexported with the foreign produced item.

- **Bundling**
  - Software that is configured for a specific commodity, but is not necessarily physically integrated into the commodity.
    - ‣ Example: For instance, printer driver software is generally not incorporated into a printer but is customarily delivered with the printer so that it may be loaded onto the computer to which it will be connected.
  - Eligible software is software that is listed on the Commerce Control List (CCL) and is controlled for anti-terrorism (AT) reasons or software that is designated EAR99 (subject to the EAR, but not listed on the CCL).

- **One-time report required for technology**
  - Percentage of U.S. content by value
  - Description of your calculations
  - Values, assumptions, methodologies
  - Export price of U.S. content
  - Description and fair market value of the foreign technology

- **If over the de minimis limit ...**
  - Classify the foreign product (self classification vs BIS classification)
  - Determine License Requirements
  - Determine License Exception eligibility
  - Obtain any necessary authorization