

Travelling with counterfeit goods

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Bangkok is a shoppers' paradise. From its enormous, world class shopping malls to the evening street vendors peddling T-shirts, handicrafts, jewellery and more, you can buy almost anything here. This includes goods of questionable authenticity. On stopping at a stall to look at a Rolex watch recently, I was quoted a special price of only a few thousand baht. Given that a genuine Rolex normally fetches thousands of dollars, this was either an amazing deal, a vendor with a numeracy problem, or a counterfeit watch. I assumed the latter, and this led me to question whether it is even legal for me to buy this watch and take it back to my home country with me. So today, we will examine the international transport of counterfeit goods from Thailand.



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You can generally assume that any good not sold by an official licensed dealer of that brand's merchandise or any product that does not come with a certificate of authenticity, is counterfeit. According to the Customs Act BE2469 (1926), together with the Export and Import of Goods Act BE2522 (1979), the export of counterfeit goods from Thailand is expressly prohibited. This means that, even though you can buy all the faux designer products you want and show them off to your friends within Thailand, legally speaking, you are not allowed to take any of that counterfeit merchandise back home with you. However, under Commerce Ministry regulations there is an exception. Counterfeit goods for personal use, home appliances, or souvenirs that are owned by travelling persons in an appropriate amount are allowed to be taken out of Thailand. The appropriate quantity of these items is left to the judgement of the customs officials checking your luggage, but it is safe to say that you will not be stopped for wearing your new watch onto the plane.

The next question is, even if you were unaware of the export prohibition and managed to board the plane with your counterfeit goods in tow, will customs officials stop you at your destination and seize your souvenirs?

The import of counterfeit goods into all developed countries is illegal. In the US, for example, under the Trafficking in Counterfeit Goods or Services article of the criminal code, you could face fines of up to US\$2 million (62.18 million baht) and/or up to 10 years in prison for attempting to import counterfeit products. Trademark owners are allowed to register their trademarks with border

officials who are authorised to inspect any good for its authenticity. Brand owners train customs officials to identify counterfeits. Similar fines and/or imprisonment for such acts exist in Australia, Canada and the European Union.

However, unknown to most, (even some customs officials), there are exceptions in many of these customs laws that will allow you to get that Rolex safely home. It is perfectly legal for a person who visits Thailand, or any other foreign country, to purchase counterfeit merchandise there, and by declaring it on their customs form upon arrival, to import that counterfeit item and continue enjoying its use.

According to US Customs Directive No2310-011A, "customs officers shall permit any person arriving in the United States to import one article, which must accompany the person, bearing a counterfeit, confusingly similar, or restricted grey market trademark, provided that the article is for personal use and not for sale." Moreover, the directive states that, "Customs officers shall permit the arriving person to retain one article of each type accompanying the person." One article of each type means for example, one watch. If you bring two, both will be seized. And personal use means for the traveller only; no counterfeit gifts for your friends and family.

Australian, EU and pending Canadian legislation also have personal allowance exceptions that permit counterfeit items to be legally brought in to their jurisdictions, either on the person or in luggage; subject to the official declaration of those goods on customs forms, and the payment of any applicable duties.

However, unlike the US, the legislation of these jurisdictions does not specify an exact quantity. The quantity of a particular item that crosses the threshold between personal and commercial use is left to the interpretation of the customs official, as it is not expressly defined in the legislation.

Furthermore, in the case of the EU it is important to be aware of the legislation in a particular country; France, for example, prohibits the import or possession of a counterfeit item even if for personal use.

It must be noted that this personal allowance exemption does not apply to goods that are being shipped home other than as personal baggage of the traveller. It is illegal in all developed countries to import counterfeit goods via carrier regardless of whether the intended use is personal or commercial. So although you can walk through customs wearing your counterfeit watch, you cannot FedEx one to yourself or anyone else.

So, with this new information at your disposal feel free to shop around and enjoy all of the goods that are available for purchase in every corner of the city. Give some thought to the commercial and moral implications of your purchase, and consider safety risks if you are buying something mechanical, electronic or medicinal. Just remember that, somewhat ironically, it will have to be quality over quantity when purchasing counterfeit goods to bring home.

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