

## Legal Updates: Enforcement of the Prohibited Importation of Used Motorcycles into the Kingdom

August 20, 2021

To tackle the increase of air pollution, traffic safety, and illegally disassembly of motorcycles to sell the spare parts in which cannot be fully taxed by the Thai government, thus, the Cabinet has approved the drafting of the basic principle on 25 May 2021, that will eventually become the Notification of Ministry of Commerce Regarding Prescription of Used Motorcycles as Goods Prohibited to be Imported into the Kingdom B.E. 2564 (2021) (“Notification”). Under which, the Notification was promulgated on 11 August 2021 by the Ministry of Commerce.

The Notification states the amendment to the measurement of the importation of used motorcycles into the Kingdom according to the current situation, and regulates the requirements on the limitation of such importation. This article summarizes the essential elements of the Notification as follows:

### 1. Definition of Motorcycle under the Notification

There are many kinds of motorcycles nowadays, therefore, the Notification defined the Motorcycle that will be governed herein as follows:

Motorcycle means motorcycle, electric motorcycle, moped, bicycle fitted with auxiliary motor (electric bicycle), including sidecars, under the Customs Tariff Heading No. 87.11, and motorcycle which is an antique of more than 100 years old, under Customs Tariff Heading No. 97.00, however, excluding sidecars not fitted with the vehicle.

### 2. Prohibition of Used Motorcycle

Used Motorcycle means motorcycle under the definition above which has been used, and shall be goods prohibited to be imported into the Kingdom according to the Notification, but excluding:

- (1) Motorcycle which has been used specifically for the purpose of testing of quality or for delivery to a distribution place and accompanied by a certificate of the owner of the brand thereof; and,
- (2) Motorcycle duly registered for use for the first time abroad before loading onto a vehicle at the city of origin not exceeding sixty days, and tax and duty thereon, has been paid to the Customs Department, Ministry of Finance, as specified for a new motorcycle.

### 3. Exceptions to Prohibition

However, there are some exceptions to the importation of specifically used motorcycles that are still allowed to import into the Kingdom as follows:

- (1) Used motorcycle deemed suitable by the Ministry of Foreign Affairs that it may be import into the Kingdom by embassies, consulates general, international organizations, trade and economic offices of foreign countries, foreign organizations, which are granted immunity, or persons granted immunity, and accompanied by a letter notifying such to the Customs Department;
- (2) Used motorcycle deemed suitable by the Ministry of Foreign Affairs that it may be imported by government agencies, state enterprises, or charitable organizations of Thailand receiving such as donation from abroad under the National Public Disaster Relief and Prevention Plan, and accompanied by a letter notifying such to the Customs Department;
- (3) Used motorcycle imported into the Kingdom temporarily and will be re-exported, or used motorcycle taken out of the Kingdom temporarily and reimported into the Kingdom under the law governing customs tariff, whereby the importer thereof has conducted a formality with the Customs Department that the imported vehicle will be re-exported, or the exported vehicle will be reimported, as the case may be. (For the importation of used motorcycle under (3) into the Kingdom, if it is a temporary importation for tourism purposes, the period of importation must be in line with the period permitted to be in the Kingdom for tourists, and in the case of temporary export for tourism purposes, the period of export and reimportation must be in line with the period permitted to be in the said country for tourists.);
- (4) Used motorcycle duly registered for use within the country with the Department of Land Transport and exported out of the Kingdom but it is unable to be registered for use abroad, or it is unable to be imported into such country, causing it to be sent back to Thailand, however, it must be imported within two years from the date of exportation of same;
- (5) Used motorcycle imported into the Kingdom for use as prototype motorcycle for research, development, or testing of performance, with documents of approval of the exemption of excise tax or granted a right to pay tax at zero percent from the Excise Department, for presenting to the Customs Department accompanying the importation;
- (6) Used motorcycle with a letter of the Fine Arts Department certifying that it is imported into the Kingdom for exhibition in a museum only and it will not be registered with the Department of Land Transport; and,
- (7) Used motorcycle permitted to be imported by the Ministry of Defence under the law governing armaments control.

### 4. Consequence of Violation

Any violated importation of used motorcycle therein said motorcycle shall be destroyed by the Customs Department accordingly.



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## Concluding Remarks

The implementation of this type of importing policy has been adopted in various countries worldwide such as in Uruguay, Canada, Italy, Chile, and Philippines, etc. as it may support the tax collection by the view of these governments, and it may also help the environment since the used motorcycle engines will provide more emission due to the outdated technology foundation, as well as securing traffic safety for drivers and pedestrians as claiming by the Thai government.

In which case, the Notification shall be enforced after the lapse of 180 days from the date of the promulgation which will be on 7 February 2022 to giving a certain period to the industry and the related government agencies for preparing of such change.

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### Citation:

Editor (2021, August 13) *พาณิชย์ออกประกาศ ห้ามนำเข้ารถจักรยานยนต์ใช้แล้ว ฝ่าฝืนให้ทำลายได้*

Retrieved August 19, 2021, <https://www.prachachat.net/economy/news-737520>

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