

Yeshiva University, Cardozo School of Law

LARC @ Cardozo Law

CICLR Online

Journal Blogs

3-20-2023

Duty-Free Shopping: Comparing Tax-Free Travel Restrictions of the EU and the United States

Sarah Lerche

Follow this and additional works at: <https://larc.cardozo.yu.edu/ciclr-online>



Part of the [Comparative and Foreign Law Commons](#), and the [International Law Commons](#)

Duty-Free Shopping: Comparing Tax-Free Travel Restrictions of the EU and the United States

By: Sarah Lerche



If you have been to an airport, you have likely come across the heavily stocked, halogen lit, mini shopping malls just across from your departing gate. Affixed with the large “Duty-Free” logo, these tempting variety stores lure travelers in with their notorious “tax-free” goods, that “typically offer a distinct assortment of luxury goods-like alcohol, jewelry, and beauty products-to outbound international travelers.”[1] But the question looms, whether these duty-free shops are actually saving customers money, and how countries restrict such purchases throughout international travel. This piece will explore those two questions by comparing the European Union (EU) and the United States in their legal efforts to monitor and restrict duty-free shopping.

Duty-Free airport shopping has become an essential part of many travelers’ airport experiences. This global industry prides itself on the exemption from local or national taxes and excise duties,[2] under the premise that such goods will be immediately taken out of the country of purchase. However, the benefits do not stop at the consumer. With an average duty-free spend per passenger at \$145 USD, national economies rely on duty-free revenue for infrastructure improvement, job creation, and more.[3] Moreover, airport revenue from non-aeronautical sources, such as duty-free and other retail, consistently hovers around 40%,[4] highlighting the necessity of shopping to overall airport financial health.

While the benefits of duty-free shopping sound enticing, this industry is not without its strict limitations. Restrictions can exist both in the departing country as well as the port of arrival. Thus, the purchase of duty-free goods in one country

does not guarantee the tax exemption or the allowance of such goods in the country of arrival.[5] Travelers must comply with laws in both the departing and destination country to ensure their tax-free shopping bags make it with them all the way through the trip.

The EU only allows duty-free purchases for those travelers coming from or going to a non-EU country.[6] This means that a passenger traveling from Charles De Gaulle to Athens will be restricted from purchasing their prized Bordeaux tax-free to bring to Greece. However, that same passenger departing France would be welcome to fly to San Francisco and compare their tax-free Bordeaux with a bottle of Napa Cabernet. In addition to the restrictions regarding member countries, the EU restricts entering with tax-free items to those for “personal use” only.[7] EU Customs Authorities have unique methods to determine if products are for personal use including the quantity, travelers’ employment, and how the goods are packaged.[8] Each member country has flexibility to set their own guidelines for tobacco and alcoholic products beyond the standard EU limits.[9] Overall, the benefits of duty-free shopping in the EU are only available to customers traveling beyond member borders.

The United States also has restrictions on duty-free shopping. In general, travelers are permitted to bring up to a maximum dollar amount of merchandise back to the United States without a Customs Duty being imposed.[10] A Customs Duty is a “tariff or tax imposed on goods when transported across international borders.”[11] Regardless of whether goods were purchased in an international duty-free shop, travelers will be required to pay a customs duty upon arrival in the United States when the goods exceed the personal allowance/exemption.[12] In addition to a customs duty imposed upon arrival, international travelers to the United States must also be aware of the United States’ list of restricted items.[13] For example, French soft cheese and Spanish Serrano ham are banned from the United States, even if legally purchased duty-free in the origin country.[14] Instead of being subjected to a Customs Duty, these goods will be confiscated upon arrival.[15] Overall, both the EU and United States have heavy restrictions on duty-free items, making this seeming bargain quite complicated for international travelers.

Restrictions and country nuances aside, the question still stands, is duty-free really worth it? According to a 2017 watchdog exposé, Toblerone chocolate, the fabled duty-free treat, is not the airport bargain travelers have been brainwashed into believing it is.[16] The study found that the breakable triangle bricks could be purchased for a lower price at a local supermarket than in the duty-free airport shop.[17] In response, a World Duty Free spokesperson commented on the small selection of products studied and claimed that duty-free offers a “consistent savings across a wide range of brands and products in [] airport stores throughout the year.”[18] Overall, whether it be the complexity of country-specific legal restrictions or the potential illusion of a good deal, duty-free shopping may not be worth it for all international travelers.

Sarah Lerche is a Staff Editor at CICLR.

[1] *Duty Free Americas, Inc. v. The Estee Lauder Cos., Inc.*, 946 F.Supp. 2d 1321, 1324 (2013).

[2] *Welcome to Duty Free Facts*, Duty Free, <https://dutyfreefacts.com/duty-free-facts/> [<https://perma.cc/ZFX2-2VZP>](last visited Jan. 22, 2023).

[3] *Key Industry Stats*, Duty Free, <https://dutyfreefacts.com/key-industry-stats/> [<https://perma.cc/PV6A-9XUJ>] (last visited Jan. 22, 2023) (referencing the 2019/2020 annual statistics).

[4] *See id.* (measuring non-aeronautical revenue at 39.2%); *ACI Policy Brief Highlights Crucial Role of Duty Free and Travel Retail*, Int’l Airport Rev. (Sept. 8, 2020), <https://www.internationalairportreview.com/news/133494/aci-policy-brief-crucial-role-duty-free-retail/> [<https://perma.cc/QNQ7-74Y9>] (last visited Jan. 22, 2023) (measuring non-aeronautical revenue at 44%).

[5] *See* Duty Free, *supra* note 2; *See also*, SmarterTravel.com Editors, *Everything You Need to Know Before You Go Through U.S. Customs or Go Duty-Free Shopping*, USA Today (Jan. 2, 2020, 7:00 AM), <https://www.usatoday.com/story/travel/advice/2020/01/02/customs-and-duty-free-shopping-everything-you-need->

know/2786831001/ [https://perma.cc/U7J3-YUKD].

[6] *What Exactly is Duty Free*, N26 (June 7, 2022), <https://n26.com/en-eu/blog/what-is-duty-free> [https://perma.cc/NJ5S-WPE3].

[7] *Alcohol, Tobacco and Excise Duties*, Your Europe, https://europa.eu/youreurope/citizens/travel/carry/alcohol-tobacco-cash/index_en.htm#shortcut-0 [https://perma.cc/CFB7-FPRC] (last visited Jan. 22, 2023).

[8] *Id.*

[9] *Id.*

[10] *Customs Duty Information*, U.S. Customs & Border Prot., [https://www.cbp.gov/travel/international-visitors/kbyg/customs-duty-info#:~:text=Up%20to%20%24800%20in%20goods,a%20flat%20rate%20\(3%25\)](https://www.cbp.gov/travel/international-visitors/kbyg/customs-duty-info#:~:text=Up%20to%20%24800%20in%20goods,a%20flat%20rate%20(3%25)) [https://perma.cc/K5UC-8NXS] (last visited Jan. 22, 2023).

[11] *Id.*

[12] *Id.*

[13] *Prohibited and Restricted Items*, U.S. Customs & Border Prot., <https://www.cbp.gov/travel/us-citizens/know-before-you-go/prohibited-and-restricted-items> [https://perma.cc/3TDX-PQBD] (last visited Jan. 22, 2023).

[14] *Supra* N26, note 6.

[15] *Supra* U.S. Customs & Border Prot., note 12.

[16] *Duty Free Gin, Perfume And Toblerone Are Cheaper At The Supermarket, Says Which?*, HUFFPOST (April 26, 2017) https://www.huffingtonpost.co.uk/entry/duty-free-gin-perfume-and-toblerone-are-cheaper-at-the-supermarket-says-which_uk_59004eace4b0026db1dc555b [https://perma.cc/Y923-JDYG].

[17] *Id.*

[18] *Id.*