

PREVENTIVE LAW

SERIES

Legal Assistance Program

TOPIC:

SELLING YOUR GOODS IN JAPAN

April 2014

If you have questions concerning the topic
of this pamphlet, please contact the
Legal Assistance Office

For additional information & useful links, please visit:

<https://aflegalassistance.law.af.mil>

**Legal Assistance Office
Phone: 226-4022**

**Office of the
Staff Judge Advocate
Misawa AB, Japan**

It's spring, and you've decided to get rid of all the junk you've managed to collect during your tour in Japan. Your neighbors are having a yard sale, and they invite you to join in. If you sell your used goods at a yard sale, are you breaking any laws? **Maybe.**

You learn that you can sell your junk at a higher price if you take it to the flea market in Hachinohe. The Japanese love buying our used American goods. Is the flea market legal? **Maybe.**

At the flea market, you see Americans selling their crafts that they have made from the Skills Development Center. Can they do that? **Probably not.**

You also see one of your friends selling her homemade cakes to Japanese people. Can she do that? **Only under limited circumstances.**

The point is, there are a lot of rules governing what we can and cannot sell while we are stationed in Japan. These rules come from the Status of Forces Agreement (SOFA), which governs how we live, act, and work while living in Japan. Supplementing the SOFA are 5 AFR 125-8, Acquisition and Disposition of Personal Property in Japan, and 35 FWI 36-2901, Misawa Air Base Community Standards.

Reselling goods you purchased on base

It goes without saying that, regardless of whether you're stationed in Japan, America, or some other country, you certainly are not allowed to buy goods at the BX or the Commissary and resell them for a profit. However, there is no rule that prohibits you from buying goods on base and selling them for the same price or a lesser price than that which you bought the items **as long as you are transferring the items to individuals who are authorized to make the same on base purchases.** For example, if your friend is ill and asks you to do his shopping for him, you might go to the Commissary, buy his food with your money, and have him reimburse you as you drop the food off at his dorm. There is certainly nothing wrong with that **as long as he is authorized to shop at the Commissary.** If he isn't authorized to shop at the Commissary or other on base establishments, you've just violated rules pertaining to AAFES and DECA.

Similarly, if you have a home business cleaning people's homes, you can buy detergent at the Commissary and have your customers reimburse you for the detergent as long as **they are authorized to use the Commissary** and as long as you don't make a profit when your customers reimburse you.

In Japan, the same rules apply. You cannot make on base purchases and sell the items for a profit. Additionally, you cannot make on base purchases, give the merchandise to people who aren't authorized to make the same on base purchase, and have them reimburse you.

5 AFR 125-8, para 6(a) states this a different way: US authorized personnel stationed in Japan may transfer personal property (which is in Japan due solely to our presence in Japan), to other US authorized personnel unless it violates Armed Forces regulations (such as the DECA and AAFES regulations against reselling on base goods for a profit).

Customs Rules

Many of the SOFA provisions pertaining to black marketing are based on the fact that goods we buy on base come into Japan duty and custom free. Therefore, everyone who has SOFA status enjoys the benefit of customs free purchases on base. It isn't right for people who don't have SOFA status (i.e. Japanese nationals) to be able to acquire American goods duty free when the rest of Japan has to pay duties for the same American goods.

For that reason, 5 AFR 125-8, para 6(b) states that we can sell goods to people who don't have SOFA status (people without ID cards such as Japanese nationals) only if:

1. the goods have been in Japan at least 6 months
2. the goods are not purchased on base
3. the goods are not tobacco products

However, if we sell these goods (non tobacco goods not purchased on base and existing in Japan for 6 months), **and we charge over \$24.99 for them**, we have to fill out customs forms for each item we sold for over \$24.99! 5 AFR 125-8 has a list of places where you can obtain and submit these forms.

Yard Sales and Flea Markets

You must separate your customers into two categories: **people with SOFA status** (people authorized to make purchases at on base facilities), and **people without SOFA status** (people without ID cards, for example).

For people with SOFA status, you can sell anything you want as long as you don't resell, for a profit, items you purchased on base. The same would apply if you were stationed in America.

For people without SOFA status, you must not sell items that you bought on base. Even if you bought the on base items over six months ago, you still cannot sell them to people who could not have bought the items themselves. You may sell items that weren't purchased on base as long as they have been in Japan over six months and as long as the items aren't tobacco products. If you charge over \$24.99 for any item, you must fill out customs forms.

If you purchased an item off base in Japan, you can sell it to whomever you wish for whatever price you wish.

Does this mean that you must check your customer's ID cards before selling them items at a yard sale or flea market? It isn't necessary unless that's the only way you can tell which of your customers are authorized to make on base purchases.

Baked Goods and Crafts

What about items that you made with ingredients you bought on base? Many people want to sell baked goods and arts and crafts items, but the same limitations apply. For a cake or a craft, you can use ingredients or supplies purchased on base, but you must limit your customers to people who can make the same on base purchases. Here's an extreme example: You want to sell pies and the only ingredient that you purchase on base is the salt (1/4 teaspoon per pie). Does this mean that you can't sell your pies to Japanese nationals? YES!! Of course, most baked goods and crafts consist of ingredients all of which are

purchased on base, but the point is that you can only sell goods made with on base ingredients to people who could have bought the on base ingredients themselves. Therefore, if you plan to sell to non-SOFA personnel, you must purchase your ingredients off base.

Home Businesses

Some base approved home businesses involve selling food and merchandise. For home businesses like cake baking, the above rules apply. Additionally, home businesses cannot compete with or duplicate on base services. The Skills Development Center including the Auto Hobby Shop and Craft Shop cannot be used for profit. This means home business operators cannot use those facilities for the creation of their products. Finally, the APO mail system cannot be used in connection with the operation of a business or profit making activity. If you wish to sell goods mailed from America, your customers must receive the goods in their individual APO boxes (the same way they would receive a Sears catalogue order through their individual APO boxes). These rules are not part of the Status of Forces Agreement, but are derived from numerous other regulations.

When the Japanese Ask You to Sell Goods

Occasionally, Japanese individuals or civic groups such as the Chamber of Commerce will ask you or your private organization to sell goods at a festival or other community event. If you received such a request, please notify Public Affairs or the Base Legal Office immediately. Japanese nationals do not necessarily understand the SOFA between our countries. Moreover, even if their community officials, in innocent good faith, ask you to do something illegal, you could get punished for doing it. The fact that a Japanese community leader made the request does not make an act of black-marketing legal.

For More Information

If you have additional questions or someone asks you to sell something you think might be improper, please contact the Misawa Air Base Legal Office at 226-4022. Better yet, write your question down, and bring it or send it to the Legal Office. It's much easier for an attorney to review your problem and conduct the proper research if the problem is presented in written form.

Reference Information:

http://www.e-publishing.af.mil/?txtSearchWord=35FWI36-2901&client=AFPW_EPubs&proxystylesheet=AFPW_EPubs&ie=UTF-8&oe=UTF-8&output=xml_no_dtd&site=AFPW_EPubs&btnG.x=23&btnG.y=8

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