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The “Omnibus Package” and its impact on CBAM

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The “Omnibus Package” recently proposed by the European Commission and the planned amendments to Regulation (EU) 2023/956 represent a significant step towards reducing the regulatory burden on sustainability issues. Among other things, it would ease the burden of the Carbon Border Adjustment Mechanism (CBAM).

CBAM is a system designed to prevent companies from relocating their emission-intensive production to countries with lower or no carbon pricing.

Currently, importers of CBAM goods “only” have to comply with a reporting requirement. In the next step, pricing will be added through the purchase of CBAM certificates. The certificates are intended to offset the CO₂ emissions generated in the production of the imported goods.

Overview of the proposed changes to CBAM in the EU Omnibus Simplification Package

The EU Commission has now presented a draft (COM 2025/87) amending the CBAM Regulation. The planned changes are intended to reduce the number of parties affected by CBAM obligations. At the same time, companies that continue to be subject to CBAM provisions should benefit from simplifications. Overall, the efficiency of monitoring and implementing the CBAM mechanism should be improved. The most important changes include the following:

- **De minimis threshold:** The previous threshold of EUR 150 per consignment is to be raised to 50 tons of CBAM relevant goods per year.
- **CBAM certificates:** The pricing phase is to begin on 1 January 2026, the beginning of certificate sales is to be postponed to 2027. This means that affected imports from 2026 will have to be covered by certificates, but the certificates will not be issued until 2027. The amount of CBAM certificates to be purchased depends on the price of EU ETS certificates at the time of import.



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The “Omnibus Package” and its impact on CBAM

- **CBAM reports (declarations):** From 2026, only annual CBAM declarations will have to be submitted (instead of quarterly as at present). The deadline for submitting the CBAM annual declaration is to be postponed from 31 May of the following year to 31 August of the following year. It should be noted that the European Commission will continue to compare the customs data with the filed CBAM declarations. This is to ensure that the declarant fully complies with the reporting requirements. In the event of missing, incomplete or incorrect CBAM declarations, a rectification procedure will be initiated. A CBAM declaration is considered incomplete or incorrect if the data or information in the filed report does not meet the established requirements, if the reporter uses incorrect data/information, or if the reporter fails to provide adequate justification for the use of alternative calculation methods. Financial penalties for non-compliance shall increase.
- **Calculation:** Businesses affected by CBAM obligations should benefit from simplifications in data collection, emissions calculation and verification, and the calculation of the required certificates. The use of standard values should also be possible starting in 2026. Nevertheless, an analysis should be performed to determine whether the calculation with the actual values might offer savings potential.

In any case, the proposed changes are to be welcomed, although it remains to be seen how they will be implemented. The proposed regulation is currently being discussed at the European level, and a timely agreement would be desirable.

The EU Commission also announced further proposed amendments: a full review of the CBAM-Regulation is planned for the end of 2025, which will consider an extension to further product groups and to downstream goods of the product groups already affected.

Application for authorization as approved CBAM declarant

Carbon Border Adjustment Mechanism

In addition to the “Omnibus Package” proposal for CBAM, the EU Commission implementing regulation laying down rules as regards the conditions and procedures related to the status of authorized CBAM declarant is now available. This implementing regulation ((EU) 2025/486) was published on 18 March 2025. From 1 January 2026 onwards, only authorized CBAM declarants will be allowed to import affected CBAM goods.

As of a few days ago, affected importers of CBAM goods or indirect customs representatives for CBAM goods can now apply for authorization as CBAM declarants. The Austrian customs office has recently published a guide to this process. Accordingly, the declaration has to be made via the online portal “Authorisation Management Module” (AMM), which is provided and managed by the European Commission. To access the AMM, an EORI number (Economic Operators' Registration and Identification) and access to the “Unternehmensserviceportal” (USP) are required. Subsequently, data has to be entered and documents must be uploaded.

Application for authorization as approved CBAM declarant

In view of the changes planned by the Omnibus Package, entrepreneurs will have to check their CBAM obligations and possible exemptions so that they are allowed to import CBAM goods from 1 January 2026. If affected, the application process should also be started in due time. It should be noted that the competent authority is allowed up to 180 days to process the application.

The guide can be accessed via the following link (German version only):
[https://www.bmf.gv.at/themen/klimapolitik/carbon-markets/Carbon-Border-Adjustment-Mechanism-\(CBAM\)-/bepreisungsphase-ab-2026/zulassung-als-cbam-anmelder-\(ab-1.-J%C3%A4nner-2025\).html](https://www.bmf.gv.at/themen/klimapolitik/carbon-markets/Carbon-Border-Adjustment-Mechanism-(CBAM)-/bepreisungsphase-ab-2026/zulassung-als-cbam-anmelder-(ab-1.-J%C3%A4nner-2025).html)

Federal Fiscal Court on the VAT Treatment of the Provision of Company Cars to Employees

Value Added Tax Act

The Austrian Federal Fiscal Court (Bundesfinanzgericht, BFG) recently dealt with the VAT treatment of the provision of company cars to employees for their private use in two decisions.

In its decision of 26 August 2024, RV/2100440/2023, the BFG had to decide whether the contractually regulated provision of a company car by a German entrepreneur to an Austrian employee with the car being mainly used in Austria and also for private trips is taxable or non-taxable. Referring to the ECJ case law in the QM case (20 January 2021, C-288/19), the BFG concluded that there was an exchange of services at hand and rejected the complaint. According to the BFG, if the right to privately use a company car is individually agreed upon in the employment contract, part of the work performance represents the remuneration for the provision of the car, since the employees' decision to enter into the employment relationship under the offered or only other conditions also depends on the promise of this possibility of use. An appeal was filed against the decision (pending at the Austrian Supreme Administrative Court under Ro 2024/15/0028).

In the decision of 10 January 2025, RV/2100765/2024, the BFG had to assess a case of the provision of company cars registered in Austria and not eligible for input VAT deduction by a German entrepreneur to employees. The German entrepreneur bore all costs related to the cars, only for private trips abroad the employees had to bear the fuel costs themselves. Although the BFG ruled that there was an exchange of services, it denied a VAT liability referring to the view of the Austrian tax administration (margin no 1931 Austrian VAT Guidelines) and stated that otherwise a system-inconsistent double taxation would be the consequence. Although the BFG followed the legal opinion presented in the Austrian VAT Guidelines in its argumentation, an appeal was filed against the decision by the Austrian tax authorities.

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