

# Tax Updates

12 December 2023



## Consistent with our commitment to provide updated information on current tax issues, we set down below a brief overview of the provisions of the new Regulation (EU) 956/2023 on the establishment of a Carbon Border Adjustment Mechanism – “CBAM”, as notified through E.2072/2023

The new Regulation (EU) 956/2023 establishing a Carbon Border Adjustment Mechanism (“CBAM”) has entered into force and is applicable from 1 October 2023. CBAM Regulation aims at regulating greenhouse gas emissions embedded in certain goods upon their importation into the customs territory of the European Union (EU), with the purpose of preventing the risk of carbon leakage.

### Which categories of goods are covered under CBAM?

CBAM applies to goods listed in Annex I of the Regulation (identified by their CN code), namely:

- Cement;
- Electricity;
- Fertilizers;
- Iron and steel;
- Aluminium; and
- Hydrogen

### Exemptions from CBAM?

The relevant provisions do not apply to:

- goods whose intrinsic value per shipment does not exceed EUR 150;
- goods transported in the personal luggage of passengers, whose intrinsic value does not exceed EUR 150 as well;
- goods which are destined to be transported or used in the context of military activities; and
- goods imported from Switzerland, Iceland, Lichtenstein, or Norway.

### Persons liable to submit CBAM reports

For taxpayers established within the EU, the person qualifying as the importer of record (i.e. the declarant) is responsible to file the required CBAM report, unless he has appointed an indirect customs representative who has agreed to undertake such obligation.

For taxpayers established outside the EU, which are, in any case, required to appoint an indirect customs representative, the latter is required to submit the necessary CBAM reports.

### What is the implementation period and the associated obligations?

CBAM will be implemented in two phases as follows:

**Transitional period (1 October 2023 to 31 December 2025):** During the transitional period, importers need to report on a quarterly basis a set of data, without paying a financial adjustment for the embedded emissions. However, penalties may be imposed (for example, for failing to submit the required quarterly CBAM reports).

**Definitive period (starting on 1 January 2026):** From 2026 onwards, importers will have to register as authorized declarants and start purchasing CBAM certificates corresponding to the carbon price that would have been paid under the EU's carbon pricing rules (the EU Emissions Trading System), had the goods been produced within the EU.

By 31 May of each year, and for the first time in 2027 for the year 2026, each authorized CBAM declarant shall submit a CBAM declaration for the preceding calendar year, containing information regarding the total quantity of each type of goods imported, the total emissions embedded in imported covered goods during the previous calendar year, and the corresponding total number of CBAM certificates to be surrendered. In this regard, declarants may claim a reduction in the number of CBAM certificates to be surrendered in order for the carbon price effectively paid in the country of origin for the declared embedded emissions to be taken into account.

## Which is the reporting process during the transitional period?

During the transitional period, importers will be required to submit a CBAM report in the CBAM Transitional Registry no later than one month after the end of a quarter, with the first CBAM report due by 31 January 2024 (for Q4 2023). CBAM reporting will include information on, inter alia, the:

- Cumulative quantity of imports per type of goods;
- Combined Nomenclature (CN) codes of goods;
- Country of origin;
- Actual total embedded and indirect emissions pertaining to the goods imported (at both a product and installation level); and
- Carbon price due in the country of origin for the embedded emission in the imported goods, including reference to the legal act governing the carbon price and the quantity of emissions covered by any free allocations, rebates, or other forms of compensation.

## Which are the methodologies for the calculation of embedded emissions?

CBAM Regulation provides for the following alternative methodologies for the calculation of embedded emissions:

**EU Methodology:** The embedded emissions of CBAM goods are to be determined using either a calculation-based approach (where emissions from source streams are determined based on activity data) or a measurement-based approach (consisting of a continuous measurement of the concentration of the relevant greenhouse gases themselves).

**Acceptable Alternative Methodologies:** In addition to the above methodology, companies will have the choice **until 31 December 2024** of reporting in one of three alternative ways, consistent with:

- A carbon pricing scheme applying in the jurisdiction where the producing installation is located; or
- A compulsory emission monitoring scheme applying in the jurisdiction where the producing installation is located; or
- An emission monitoring scheme applying in the jurisdiction where the producing installation, which can include verification by an accredited verifier.

**Other non-prescribed methodologies:** A further alternative is provided for reporting declarants who cannot obtain the requisite information that would allow them to report under one of the methodologies listed above. **Until 31 July 2024**, reporting declarants may use other non-prescribed methodologies for determining the emissions, including default values made available and published by the Commission.

It is important to note that, as of **1 January 2025**, only the EU methodology will be accepted.

## How KPMG can help

The EU CBAM is associated with significant increases in climate ambition within the European Union. In this context, EU implemented the world's first Carbon Border Adjustment Mechanism (CBAM) with implications for the future carbon price pathway.

KPMG provides end-to-end services to European importers and suppliers outside Europe, which include:

- Providing insight into the CBAM legislation and implementing acts;
- Performing impact assessments and supply chain scenario analysis to mitigate the impact and anticipate the risk identification;
- Compliance assistance with respect to CBAM reporting requirements;
- Coordinated approach between EU and non-EU experts.

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## More information at

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This Newsletter aims to provide the reader with general information of the above-mentioned matters. No action should be taken without first obtaining professional advice specifically relating to the factual circumstances of each case`