

TAX NEWS

The new Carbon Border Adjustment Mechanism (CBAM): new reporting obligations for importers

Statement of facts

The European Union, within the framework of its commitment to the protection of the environment and the stand up for climate change, approved the greenhouse gas emission rights trading regime, being the objective that **products manufactured in the territory of the EU** incorporate the cost of the carbon emitted in their production.

In this sense, due to the possibility of **relocation the production** to other countries with fewer environmental restrictions and an **increase in imports** of more carbon-intensive products, as a consequence of the aforementioned regime (**“risk of carbon leakage”**), the European Parliament and of the Council approved the Regulation (EU) 2023/956 of May 10th 2023, which states the **Carbon Border Adjustment Mechanism (CBAM)** that seeks to guarantee that **products imported** into the territory of the EU are subject to a regime that applies carbon costs being similar to those borne by products manufactured in the EU.

As we briefly summarize below, the CBAM becomes effective on **January 1st, 2026**, thus, certain imports will only be allowed by private individuals or companies that have authorized declarant status and acquire sufficient certificates to cover the emissions implicit in the imported goods; i.e. certificates which are equivalent to the carbon price they would have paid if the goods had been produced under EU carbon pricing rules.

Notwithstanding the above, it should be noted that the Regulation foresees a **transition period, which started last October 1st, 2023 and will end on December 31st, 2025**, during which importers of goods included in the scope of application of the CBAM **will be required** to report greenhouse gas emissions caused directly or indirectly by their imports, without obligation to make payments or making any adjustments, that is, without obligation to acquire and deliver CBAM certificates.

Scope of application

The CBAM will apply to goods listed in the Annex I of the mentioned Regulation (corresponding to the sectors of **cement, electricity, fertilizers, foundry, iron, steel, aluminum, and hydrogen**) with origin in a third country, where such goods, or products processed from such goods as a result of the inward processing procedure, **are imported** into the customs territory of the Union.

It should be noted that, goods from the following countries are excluded: Iceland, Liechtenstein, Norway, Switzerland, Büsingen, Helgoland Island, Livigno, Ceuta and Melilla.



CABM formal implications

As a consequence of the above-mentioned, the following main CABM implications according with the Regulation, would arise:

- Private individuals or companies that import goods affected by the CABM **must be registered as authorized declarants in the CABM Registry**. In this way they obtain a unique CABM account number, which is necessary for the customs authorities to allow the import. This obligation will come into force next **December 31st, 2024**.
- Each year, being the deadline on May 31st, **authorized shall submit through the CABM registry a return corresponding** to the previous calendar year in which, in summary, shall indicated:
 - ✓ The total quantity of each type of imported merchandise.
 - ✓ The total emissions implicit in said goods (validated by an accredited verifier).
 - ✓ A copy of the verification report issued by an accredited verifier.
 - ✓ The total number of CABM certificates that must be delivered within the same period.



This obligation to **submit the CABM declaration** will apply for the first time in **2027, as regards the year 2026**.

- Within the deadline, **the authorized shall submit** via the CABM registry **the number of CABM certificates** corresponding to the implied emissions included in the return submitted for the year preceding the submission.

As in the case of the CABM return, this obligation to surrender CABM certificates will be applicable for the first time in 2027, as regards the year 2026.

- During the transitional period, **from 1st October 2023 to 31st December 2025**, importers of goods subject to the CABM will be required to submit to the Commission a **quarterly report** on imported goods within one month of the end of each quarter in which imports have been made.

The **first report** is due by **January 31st, 2024**, including information on goods imported during the fourth quarter of 2023.

It should be noted that as regards reporting obligations for the purposes of CABM **during the transitional period** should be considered the Regulation 2023/1773 adopted on 17 August 2023, laying down detailed rules for the implementation of Regulation (EU) 2023/956.

Finally, we would like to point out that, the application of penalties are foresees for non submissions of reports or because the data included is not correct or incomplete, without the necessary measures having been taken to correct them once the correction procedure has started. The amount of the penalty will be between 10 and 50 euros per ton of non-notified emissions, increasing in accordance with the European CPI.



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