



## Section 21b of the German VAT Act: special provisions for the use of centralised clearance

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On 1 January 2026, by means of the Tax Amendment Act 2025, the German legislator introduced the new sec. 21b of the German VAT Act (UStG). The new regulation deals with the point in time import VAT is incurred and its assessment when using centralised clearance. The regulation is particularly relevant when import transactions are handled in a Member State that is not the Member State of importation. This is because import VAT is not necessarily payable in the Member State where the customs debt is payable.

### 1 Background

A customs debt is generally incurred at the place where a particular customs declaration is lodged, see Art. 87 para. 1 subpara. 1 of the Union Customs Code (UCC). It can therefore only be lawfully assessed and levied by the customs administration of the respective Member State. The respective national customs administration is responsible to the EU for collecting and forwarding the relevant customs duties. Import VAT, on the other hand, is a national excise duty (regulated in Germany in sec. 1 para. 1 No. 4 UStG). It is administered by the Member State in which it arises, see Art. 201 of the EU VAT Directive. The place of incurrence of the customs debt and import VAT liability may differ. Even though sec. 21 para. 2 UStG refers to customs debt law as regards the incurrence and liability of import VAT, these regulations are not necessarily applicable. With regard to import VAT, the ECJ has already ruled, on several occasions, that it is, by way of derogation, deemed to be incurred at the place where the goods entered the Union's economic network EU ([KMLZ Customs Newsletter 01 | 2021](#)). This inevitably leads to a discrepancy between the place of incurrence of import duties and that of import VAT.



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Particularly when using centralised clearance, in accordance with Art. 179 of the UCC, these places may differ. The customs declaration may be lodged in Member State A, while the goods are cleared in Member State B and then enter the economic network there. In 2023, the VAT Committee of the Directorate-General for Taxation and Customs Union (TAXUD) at the European Commission issued an opinion on how to handle this scenario, which the German legislator has now implemented in the Annual Tax Act 2025.

## 2 Content of the regulation

The starting point for the regulation is the statement that the import VAT liability is incurred domestically when the goods are presented domestically, see sec. 21b para. 1 sentence 1 UStG. In the event of an exemption from the obligation to present the goods, the import VAT liability is incurred where the goods are located at the date of acceptance of the customs declaration, see sec. 21b para. 1 sentence 2 UStG. This is to ensure that taxation takes place where the goods enter the economic network. If this place is in a Member State other than the one in which the declarant lodges the customs declaration, an additional VAT return on the importation of goods is required, see sec. 21b para. 3 sentence 3 UStG.

Lodging a customs declaration in one Member State and an additional VAT return on the importation of goods in another Member State is impractical. For this reason, sec. 21b para. 3 sentence 1 UStG provides for a simplification. According to this provision, the transmission of the customs declaration, in the other Member State, to the competent customs authority in Germany serves as a VAT return. The prerequisite is that it has actually been recorded in a processable manner and contains all of the information necessary for assessing the import VAT. A further prerequisite is that the declarant, or his representative, holds an authorisation for deferred payment with regard to the import VAT and that this has already been stated in the customs declaration. The reason for this is that, under the UCC, the goods are only to be released if the import duties have been paid or a corresponding guarantee to cover the debt has been provided, see Art. 195 para. 1 subpara. 1 of the UCC. The latter is the case when deferral of payment is granted. This also applies if the security for import VAT is EUR 0, see sec. 21 para. 3 UStG. According to the Commission's proposal, the customs authority that received the customs declaration will forward the information to the customs authority responsible for collecting import VAT in the other Member State.

## 3 Consequences for the practice

The new regulation is of considerable importance for taxable persons who use or wish to use the centralised clearance system in accordance with Art. 179 of the UCC. The major advantage is that customs declarations only have to be lodged centrally, to one main customs office. However, this is subject to the requirement of an Authorised Economic Operator status for customs simplifications (AEO C), Art. 179 para. 2 of the UCC. A further requirement is the authorisation of a deferral of payment. The latter applies, in any event, if the goods are presented in Germany or are located there at the date of acceptance of the customs declaration. In addition to this case, which is relevant in Germany, the Commission has also approved the case in which the import VAT is assessed as part of the periodical VAT return. This case is not applicable in Germany at present due to a lack of legal regulations. However, the coalition agreement of the current German government announces a transfer of import VAT collection to an offsetting model for import VAT ([KMLZ Customs Newsletter 01 | 2025](#)). The introduction of such a regulation would make the granting of a deferral of payment unnecessary. If the goods are placed in another Member State or are located there at the date of acceptance of the customs declaration, the applicable national regulations apply. If an assessment is possible, within the framework of the periodical VAT return (eg in Belgium), the corresponding authorisation must be included in the centralised declaration.