



Abolition of the Cuxhaven free port and amendment of fine provisions in customs law

The Federal Ministry of Finance (BMF) recently published a draft bill to amend various customs regulations. In addition to a number of editorial changes, the free port of Cuxhaven is, according to the draft, to be abolished. After the free port of Hamburg was abolished at the turn of the year 2012/13, this new legislation will render the free port of Bremerhaven as the last remaining German free port.

In addition, the provisions on fines in the Military Customs Act (TrZollG) and the Customs Administration Act (ZollVG) are to be revised. For some offences, the maximum fine to be imposed is to be increased to EUR 30,000. The Federal Ministry of Finance is authorised to specify this by means of implementing decrees.

1 Abolition of the free port of Cuxhaven

The grounds for the abolition of the free port of Cuxhaven, as from 1 January 2025, are that the economic need to maintain it is disproportionate to the personnel costs for economic operators and the customs administration. This applies (as was the case when the free port of Hamburg was abolished more than ten years ago) primarily because the status, as a free zone of control type I, generally no longer offers any significant advantages due to changes in European customs law. Against this background, the port administration itself initiated the application for its abolition.

2 Consequences under customs and VAT law

The free port of Cuxhaven currently remains a free zone within the meaning of Art. 243 para. 1 of the UCC, in which goods can be stored without import duties being levied or commercial policy measures (eg import authorisations) being applied.



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When the free zone is abolished, the previously delimited sector will become part of the regular customs territory of the Union.

Following the abolition, goods that are brought into the free port area from a third country will be subject to the general regulations for goods entering the customs territory of the Union. The goods must be presented and may remain in temporary storage for a maximum of 90 days without being placed under another customs procedure. In order to ensure that non-Union goods are not subject to import duties or commercial policy measures, beyond the period of temporary admission, the goods can be placed in a customs warehouse. Public customs warehouses fulfil a similar function to free zones. In addition, economic operators can set up private customs warehouses themselves. The establishment of such a warehouse requires an authorisation.

From a VAT legal perspective, the area becomes domestic, within the meaning of sec. 1 para. 2 sentence 1 of the German VAT Act. Supplies of goods to the territory are no longer zero-rated export supplies of goods. In particular, this removes the option of being able to supply goods zero-rated for collection in the free port (FCA free port of Cuxhaven). This was previously possible, regardless of whether the recipient abroad made personal use of the goods or supplied them to a third party.

Businesses who currently collect goods from the soon to be abolished free port or render supplies of goods or services there should check whether their customs and VAT processes need to be adjusted. Alternatively, the free port of Bremerhaven or a public or private customs warehouse can be used.

3 Amendment of the provisions on fines in the TrZollG

Sec. 26 of the TrZollG on administrative offences, for the infringement of the provisions on the placing of goods for military use, has been revised. The offences have been extended and now also include violations of directly applicable provisions laid down in acts of the European Union. The amount of the possible fine has been increased to EUR 30,000. The Federal Ministry of Finance is authorised to specify the offences that can be punished as administrative offences insofar as this is necessary in order to enforce the acts of the European Union.

The TrZollG did not previously provide for an administrative offence for breaches of Union acts. It is remarkable that this adjustment is only being made now - more than 10 years after the introduction of the UCC.

Previously, there was no legal basis for penalising such infringements under the TrZollG. Such offences could not be punished under the Regulation on the Implementation of the Military Customs Act (TrZollV) either, as there was no legal basis for a corresponding regulation at the regulatory level.

4 Amendment of the provisions on fines in the ZollVG

In addition to numerous editorial changes (eg UCC instead of CC, Union goods instead of Community goods), the previous secs. 31 and 31a of the ZollVG on administrative offences, for violations of customs law-related transactions, have been merged and revised. Here too, the amount of the possible fine will, in more cases, be increased to EUR 30,000.