

This is a quick and handy summary of the most relevant course information.

## 1 Learning objectives

By the end of this 75-minute course, you will have learned about:

- what customs debt is and when it is incurred;
- who can be a debtor;
- where a customs debt is incurred;
- how a customs debt is determined;
- the debt recovery process and the extinguishment of the debt;
- the impact of post-release control on customs debt.

## 2 When can a customs debt be incurred?

### 2.1 Through compliance

- A customs debt can be incurred when an economic operator imports non-Union goods and places them under the **release for free circulation** or **temporary admission procedure**.
- Exceptional customs debt on import can also be incurred via the re-export declaration.
- The customs debt will be incurred at the time of acceptance of the customs declaration.

### 2.2 Through non-compliance

- A customs debt can also be incurred through non-compliance when
  - an economic operator does **not comply with the obligations** of a customs procedure;
  - an economic operator does **not fulfil the conditions** for placing goods under a customs procedure;

## 3 Who is the debtor?

- Where several persons are liable for the payment of duties, they will be **jointly and severally liable** for the payment of these duties.

### 3.1 Through compliance

- The declarant is the debtor :
  - If **the importer lodges the customs declaration** himself, he is also the debtor.

- If the customs declaration is lodged by a direct representation in the name of and on behalf of the importer, **the importer is the declarant and the debtor**.
- In case the customs declaration is lodged by an indirect representative in his own name but on behalf of the importer, both **the indirect representative** and the importer are responsible and are the debtors.
- In addition, **any person who provided the information** required to draw up the declaration and reasonably ought to have known that the information was false, will also be a debtor.

### 3.2 Through non-compliance

- In case of non-compliance with the obligation of a customs procedure, the debtor(s) is(are):
  - the person who has to **comply with the obligations**,
  - the person who is **acting on behalf of the person** who has to comply with the obligations,
  - the person **holding the goods**.
- In case of non-compliance with the conditions for placing goods under a customs procedure, the debtor(s) is(are):
  - the person who has to **comply with the conditions**,
  - the person who **provided the information** for the customs declaration.

## 4 Where is the customs debt incurred?

### 4.1 Through compliance

- The customs debt is incurred at the place **where the customs declaration is lodged**.

### 4.2 Through non-compliance

- Firstly, the customs debt is incurred **where** the **event** from which the debt **arises** happened.  
*For example: the person was caught when removing goods from customs supervision without authorisation.*
- If it is not possible to determine that place, the customs debt will be incurred **where** the Customs Authority **conclude** that the **goods** are **in a situation** in which a customs debt is incurred.  
*For example: the goods were found for sale on a market without having been released for free circulation.*
- In case the goods were placed under a customs procedure which has **not** been **discharged** or when a temporary storage was **not ended properly**, and the above paragraphs cannot be applied, the customs debt will be incurred **where the goods were declared or were in temporary storage**.  
*For example: the goods under transit never arrive at destination and the Customs Authority cannot establish in due time where the irregularity took place.*

- If the Customs Authority can establish that the customs debt may have been occurred in **several places**, the customs debt is deemed to have been incurred at the place **where** it was **first occurred**.  
*For example: the customs office of destination can establish that in each country on the transit route, parts of the goods were removed. .*
- However, if the amount due is **lower than € 10.000,-**, the custom debt will be deemed to have been incurred in the Member State **where the finding was made**.  
*For example: the customs office of destination determines that the amount of the customs debt related to the retracted goods is lower than € 10.000,-.*

## 5 How is a customs debt determined?

- To determine the customs debt the customs officer will apply the appropriate tariff to the customs value of the goods.
- To know the right tariff, the customs officer consults TARIC and needs to know:
  - the Combined Nomenclature (CN) code which identifies the goods,
  - the origin of the goods
- The economic operator can also calculate the customs debt due and enter the amount onto his customs declaration.
- The practical procedures for the entry in the accounts of the amounts of duty due is determined by each Member State, however, the time entry in the accounts is set by the UCC.
- The Customs Authority has to notify the amount of duty to be paid to the debtor. However, in some cases, it is not required.

## 6 Customs debt recovery

### 6.1 Recovery/Repayment/Remission

- The customs debt recovery process begins when the customs debt has been entered into the accounts and notified to the debtor(s).
- As a general rule, **payment must be made within 10 days following the notification**.
- There are two other important procedures involved at recovery stage:
  - **Repayment**: when refunding an amount of import duty that has been paid.
  - **Remission**: when waiving the obligation to pay an amount of duties, which have not yet been paid.
- The amount of duty will be **repaid or remitted** on the following grounds:
  - **overcharged** amounts of import duty,
  - **defective goods** or goods not complying with the terms of the contract,
  - **error** by the competent authorities,
  - **equity** to ensure that all economic operators are treated fair and equal.

## 6.2 Extinguishment

- **When** a customs debt has been **paid** it is considered to be extinguished.
- A customs debt may also be extinguished for example:
  - **when** the customs debt **ceases to exist**;
  - **when** the customs debt has been **levied** and thus has been remitted or repaid;
  - **when** the debtor is **not notifiable within 3 years**.

## 7 Post-release control

- Customs officials can go **back through 3 years of data** to check if the customs debt has been determined in the appropriate high and if there might have been another customs debt regarding to the procedures of the economic operator which have not yet been determined.
- Post-release control entails:
  - The Customs Authority may **verify the accuracy and completeness** of the information in various systems for the purpose of customs controls.
  - The authorities may **examine the goods** and/or take samples.
  - **Controls** may be carried out **at the premises of the holder of the goods**.

*Remember, this is a quick and handy summary of the most relevant course information. Only the European Union legislation published in the Official Journal of the European Union is deemed authentic. The Commission accepts no responsibility or liability whatsoever with regard to the training.*