

General information regarding implementation by the German customs administration of European Data Protection Regulation Articles 12 to 14

Preface

Both undertakings and individual citizens interact with the customs administration and, in particular, the main customs offices and their local customs offices in a variety of ways and on numerous occasions, for instance when goods are to be cleared for import, taxes are levied, or dues reimbursed, to name but a few. All these activities require that the customs authorities process personal data in order to perform their duties properly.

The following information pertains to the processing of personal data in administrative procedures conducted by the customs office for tax purposes, in instances where the German Fiscal Code is either directly or indirectly applicable. For example, cases in which motor vehicle taxes, energy tax, excise duties or customs duties are assessed, reimbursed, or enforced.

Additionally, the customs authority may process personal data for other purposes. For instance, to conduct auditing procedures related to the financial control of illicit work or undeclared employment, or for the enforcement of monetary claims by federal authorities and social security institutions, for which the main customs offices are responsible.

The information contained herein only concerns the processing of personal data by the customs authorities of the Federal Republic (customs offices, main customs offices, customs investigation offices and General Customs Directorate). Data processing by the tax administration (tax offices, regional finance directorates, state offices for finance, Federal Central Tax Office) is not addressed.

"Personal data" means any information that directly relates to an identified or identifiable natural person. Taxation procedures also treat data as personal when it can be readily assigned to a corporate body (e.g. a club or association, or stock company), an association of individuals, assets, or a deceased natural person. When financial authorities "process"

personal data, it means that they collect, save, apply, transfer, make available for retrieval, edit or delete data.

In the following we will provide information about the kind of personal data that we collect, who we collect it from, and what we do with this data. In addition, we will inform you about your privacy rights in relation to data protection, and tell you whom to contact if you have any questions or complaints.

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1. Who is “we“?

“We“ refers to the customs authorities which you may deal with in the shape of customs offices, main customs offices, customs investigation offices and the General Customs Directorate, including the federal treasury offices (Bundeskassen) and the German Customs Investigation Bureau (ZKA).

2. Who will answer your questions?

Any questions on data protection issues can be directed to the manager of the customs service responsible for the matter concerning you.

As a rule, **the main customs offices**, their related customs offices and the federal treasury (when payment transactions are necessitated) are responsible for the processing of personal data. In certain cases, the General Customs Directorate also processes the personal data of undertakings and citizens.

You may also directly contact the **Data Protection Supervisor** of the specific customs authority which is conducting the procedure in your respect.

For the relevant **contact information** please consult the directory of departments accessible online at www.zoll.de, or where the Federal Ministry of Finance is concerned, at www.bundesfinanzministerium.de.

Should your question concern the General Customs Directorate only:

Datenschutzbeauftragte/r der Generalzolldirektion

Václav-Havel-Platz 6

53121 Bonn

Phone: +49 (0)228 303-12201

Email: datenschutz.gzd@zoll.bund.de

3. What do we process your personal data for?

3.1. Tax purposes

In order to perform our duties, in particular to supervise the cross-border movement of goods, and to uniformly set and levy import and export duties in accordance with the customs legislation of the European Union and national taxes under the provisions of the Fiscal Code and tax legislation, we require personal data (Section 85 Fiscal Code).

Your personal data will be processed in the course of the fiscal procedure that necessitated its collection (Section 29b Fiscal Code). Only in the cases expressly permitted by law may we process the personal data collected for carrying out a tax procedure for other fiscal or non-fiscal purposes (further processing under Section 29c (1) Fiscal Code).

Examples of processing:

The Main Customs Office will process the data collected in the context of a customs inspection or customs declaration for the purpose of recovering any import duties.

Data communicated in the process of submitting a declaration of tax on electricity will be processed for recovery of the tax so declared.

Examples of subsequent processing:

The data collected by the Main Customs Office in the context of a customs inspection or customs declaration may also be processed at the locally competent main customs office if there is a suspicion of irregularities or if criminal proceedings for tax fraud have been initiated.

In particular, the main customs offices administer the following taxes:

- Import and export taxes, under the Union Customs Code (UCC)
- Value-added tax on imports
- Vehicle tax
- Tobacco tax
- Energy tax
- Electricity tax
- Alcohol tax
- Beer tax
- Sparkling wine tax

As a federal authority the General Customs Directorate is primarily responsible for overseeing the nationwide implementation of customs responsibilities and for providing administrative, legal and technical supervision over the main customs offices and customs investigation offices (see also Section 5a (1) of the German Taxes Act).

3.2 Non-tax purposes

We also require your personal data for the following non-tax purposes:

- Formal investigation procedures relating to the fight against undeclared work and/or concealed employment
- The enforcement of public monetary claims made by other federal and social security institutions on the basis of sections 67a et seq. of Volume Ten, German Social Security Code (SGB X) (*inter alia* the Federal Employment Agency, health and pension insurance institutes)
- Procedures under foreign trade law which concern the compliance with legal restrictions on the import, transit and export of goods. For example, bans on the export of arms or general goods to crisis areas due to an embargo.
- The monitoring of compliance with regional or national regulations that prohibit or restrict the import and export of goods or the movement of goods into, through or from Germany. For example, this concerns the importation of goods under the provisions of the Product Safety Act and the Pharmaceuticals Act, as well as restrictions under the Weapons Act.
- Authorising preferential simplifications (e.g. “approved exporter” authorisation) and registering companies as a “registered exporter”, as well as applications for issuing “binding origin information”.
- The implementation of rules within the framework of the common organisation for the regulation of the market in certain agricultural products. Among other topics this includes licensing arrangements, compliance with marketing standards, special requirements for the import and export of agricultural products, as well as the granting of benefits for agricultural products.

4. What kind of personal data do we process?

We primarily process the following personal data:

- **Personal identification and contact details**

For example, first and last name, home address, date and place of birth, tax number, tax identification number, email address, telephone number

- **Further information necessary for the assessment and collection of taxes including any relevant information required for enforcement**

For example, information about the consignor, manufacturer, buyer, transport, origin of goods, billing details, bank details, information on taxes paid or refunded, details of submitted tax returns and applications submitted, as well as legal remedies

and

- **The following information for the aforementioned non-tax purposes**

For example, concerning real estate, information on the exporter, on the recipient of goods, description of goods, value of goods, recipient country, other assets (list of assets)

We may also collect your personal data from **third parties** insofar as they are legally obliged to disclose them to us.

Examples:

- When registering your vehicle, the vehicle registration office logs the information necessary for the establishment of a vehicle tax with the competent main customs offices.
- Social benefits providers deliver the information necessary for the enforcement of claims.

In addition, we receive tax-relevant information by way of administrative procedure **from other tax authorities** (specifically the local revenue offices and the Federal Central Tax Office) or through the **intergovernmental exchange of information between the fiscal and customs authorities of foreign countries**.

In the case that we cannot resolve a tax related issue with your help – either because you have failed to comply with the Fiscal Code taxation procedure, or have not provided, or only partially provided, the information we have duly demanded based on tax legislation – we may also collect your personal data from third parties, to the extent that they are related to this instance of taxation (e.g. by requesting information from revenue offices).

In enforcement proceedings, so-called **third-party debtors** (parties from whom you can claim cash payments, such as credit institutions or employers) communicate further personal information to the main customs offices.

There are certain kinds of personal data, termed “**sensitive data**“, that we do not normally collect (this includes health status data, and information on disabilities and personal beliefs). Rare exceptions are made when such data is absolutely necessary for the taxation procedure. For example, we may require information relating to a disability in order to grant reductions on motor vehicle taxes. However, we primarily gather your personal data directly from you, for example through your **tax returns**, notifications and applications.

Furthermore, we may process **publicly available information** (for example from newspapers, public registers or public notices).

5. How do we process personal data?

Your personal data will be stored in the **semi-automated taxation procedure** so they can be used as the basis for setting and collecting taxes. Even in non-tax procedures personal data is stored automatically. This may, for example, be required for the prosecution or punishment of criminal offences or misdemeanours. In this context we apply **technical and organizational safety and security measures** to protect your personal information from unintentional or unlawful destruction, loss or alteration, and unauthorised disclosure or access. Our safety standards always correspond to the technological state of the art.

We can make legally binding decisions based on the "**fully-automated**" processing of personal data only where this is permitted by law (e.g. the "fully-automated" tax assessment under Section 155 (4) Fiscal Code).

6. On which conditions may we share your data with third parties?

All personal information that has been made available to us in a tax or non-tax procedure may only be passed on to third parties (for example, to financial courts or other authorities) if you have consented to its release or if its **disclosure is permitted by law**.

7. How long shall we store your data?

Personal data must be stored for whatever timeframe is necessitated by the taxation procedure or as set forth by the tax **limitation periods** (Sections 169 to 171 Fiscal Code and Sections 228 to 232 Fiscal Code). As a rule, your data may thus be retained for either four or five years following the end of the year in which the tax assessment was issued or in which the claim first became due for payment.

We may also store your relevant personal information with a view to processing it in future tax procedures (Section 88a Fiscal Code).

We may also retain personal data related to non-tax purposes for as long as it is deemed necessary for the relevant procedure. You can inquire about the limitation periods by lodging a request for information regarding a specific administrative procedure (see section 8).

8. What are your rights (right of access, right to object, etc.)?

The General Data Protection Regulation (GDPR) vests you with several rights, which are detailed particularly in Articles 15 to 18 and 21 GDPR.

- **Right of access**

You are entitled to demand information from us about which personal data we processed. In your respective request you should state your concern precisely enough to help us collate the exact information sought. It should, therefore, include information about which administrative procedure (such as the tax category and year) and, if possible, which step of that procedure (such as assessment, execution) is concerned. In conformance with Article 15 (5) GDPR such information shall generally be provided free of charge

- **Right to rectification**

Should the data concerning you be not (or no longer) accurate you have the right to demand their rectification. Should your data be incomplete you can demand to have them completed.

- **Right to erasure**

You have the right to obtain the erasure of personal data concerning you. Whether you are entitled to have such data erased depends, inter alia, on whether we still need these specific data to perform our statutory duties (see 7. above).

- **Right to restriction of processing**

You are entitled to demand restriction of processing of the data concerning you. This entitlement may replace an otherwise existing right to erasure where the latter cannot be satisfied because particular circumstances within the meaning of Section 32 f Fiscal Code exist. Such restriction shall not apply where processing is justified by an overriding public interest (such as lawful and uniform taxation).

- **Right to object**

You shall have the right to object, on grounds relating to your particular situation, at any time to processing of personal data concerning you. We cannot, however, obey your objection where an overriding public interest or legal provisions would compel us to process your data (e.g. for conducting the procedure of taxation).

- **Right to lodge a complaint**

If you consider that we have not, or not fully, complied with your concern, you are entitled to lodge a complaint with the Federal Commissioner for Data Protection and Freedom of Information.

Contact information – to be used exclusively in the case of a complaint:

Der/Die Bundesbeauftragte für den Datenschutz und die Informationsfreiheit

Graurheindorfer Str. 153

53117 Bonn

Phone: +49 (0)228-997799-0

Fax: +49 (0)228-997799-550

Email: poststelle@bfdi.bund.de

General information about these rights

There may be cases where we cannot, or are not legally permitted to, comply with your request (Sections 32c to 32f Fiscal Code). We will always inform you of the reason for such refusal, insofar as this is legally permissible.

We will generally send a reply within one month of receiving your request. Should it take longer than one month to finalise your request, you will receive an interim message.