

Trading with the EU after the end of the Transition Period

27 October 2020

From 1 January 2021 the UK will cease to be treated as an EU member state for VAT purposes. Although the UK left the EU on 31 January 2020, a period of transition was agreed until 31 December 2020. This means that, until that date, VAT rules continue to apply as if the UK remained in the EU. In 2021 there will be fundamental changes in the way that trading with the EU takes place. These changes will affect all UK businesses which trade with those in the EU, and some will also impact trade with non-EU businesses.

This briefing note highlights the key changes in the tax treatment of cross border transactions due to take effect from 1 January 2021.

As negotiations with the EU are ongoing, further changes are likely before, or after, the transition period ends.

NORTHERN IRELAND

Northern Ireland will be treated differently to England, Scotland and Wales (Great Britain) from 1 January 2021 in accordance with the Northern Ireland protocol. From an EU perspective, Northern Ireland will be treated as a member state: current EU VAT and customs rules will continue to apply to EU/Northern Ireland transactions in goods instead of the new rules described in this note. However, trade between Northern Ireland and Great Britain will be subject to domestic rules. Transactions in services between the EU and Northern Ireland will be treated in line with the rest of the UK.

KEY POINTS

The key point to note is that the UK, with the exception of Northern Ireland, will cease to be treated as an EU member state. The EU concepts of acquisitions and dispatches will therefore be obsolete and goods bought and sold across the GB/EU border will become imports and exports. This aligns them with the UK's trade arrangements with the rest of the world.

Subject to any further agreements which might be reached, trade with the EU will mirror that with businesses established in non-EU countries. This will mean that customs procedures must be followed and both customs duty and import VAT are potentially payable. EU-derived simplifications, such as Triangulation, will cease to be relevant to UK businesses although customs reliefs, such as Temporary Admission, will be available and extended to GB/EU trading.

EXPORTING GOODS

Business to business sales of goods from Great Britain to the EU will continue to be zero-rated. The conditions for zero-rating will switch to the existing rules applicable to exports to non-EU countries. As well as this, the imposition of a customs border will mean that customs declarations are required, which is not the case when goods are in free circulation within the EU. In contrast, EC sales lists and Intrastat declarations for goods leaving the UK will cease.

For business to consumer sales, UK businesses will no longer be required to charge UK VAT to EU residents when trading below the "distance selling" registration threshold of the relevant member state.

Unless a free trade agreement is reached, goods from the UK entering the EU will be subject to EU customs tariffs and local import VAT.

In July 2021, the EU plans to bring in an import "One Stop Shop". This will enable non-EU businesses to register for VAT in a single EU country and account for VAT on business to consumer sales of consignments of up to €150 through a single registration.

IMPORTING GOODS

The most comprehensive changes will be experienced by businesses which import goods from the EU. These goods will become subject to customs duty according to the UK Global Tariff. Customs declarations will be required for goods coming from the EU (although there are some deferrals for the first six months of the year) and businesses importing from the EU will need an EORI number.

A separate arrangement will apply to consignments of imported goods with a value of £135 or less. These will not be treated as imports for VAT or customs duty purposes, although a simplified customs declaration will be required. VAT will be due as if the sale were a domestic UK sale, potentially requiring overseas businesses to register for VAT in the UK instead of VAT being payable on the import. Sellers selling through "Online Marketplaces (OMP)", such as Amazon or eBay, will not have to charge VAT as this is the responsibility of the OMP.

The rules for consignments valued at £135 or less apply to both business to business and business to consumer

transactions. There is an exception to this if customer business provides the supplier with a UK VAT registration number. In this case the reverse charge is applied such that the UK customer accounts for the transaction on its UK VAT return.

In contrast with exported goods, the Government has announced that Intrastat declarations for arriving goods will continue to be required in 2021.

A big advantage of the new system will be “postponed accounting” for import VAT. Postponed accounting works similarly to the reverse charge and means that VAT-registered businesses may account for import VAT on their VAT returns rather than paying it upfront when goods arrive in the country. This will impact on how businesses are required to account for VAT on their VAT returns. This is not a change as a result of leaving the EU, but rather a change to the existing import rules. As a result, imports from non-EU countries will also benefit, conferring significant cash flow advantages on many businesses.

SERVICES

The impact on businesses which supply services will mainly relate to administrative procedures such as the removal of the requirement to file EC sales lists.

A major change will apply to suppliers of digital services currently using the “Mini One Stop Shop (MOSS)” as this scheme will end in 2020 for GB businesses. Relevant businesses will either have to register for VAT in the relevant EU countries or register in one country and apply for the non-union MOSS scheme.

There will also be some changes to certain business sectors where exceptions to the general VAT rules apply (accountancy fees being a notable example). This will mean that VAT is no longer charged to EU non-business customers. The “use and enjoyment” exception to the general rule will also mean changes for relevant businesses. At present, there has been no update from the EU regarding the operation of the Tour Operators Margin Scheme (TOMS) for UK businesses operating in the EU. Further details and changes can be expected in the coming months.

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