

A no-deal Brexit

Possible VAT and Customs implications of leaving the EU without a deal





With less than two months to go before 31 October, it seems ever likely that, should the UK leave the EU, it will be without a deal with the European Union. It is still possible that a deal may be agreed or that BREXIT day may be postponed further but both Government and business should be prepared for an imminent ‘no-deal’ departure. This Briefing Paper provides insight into the latest VAT and Customs developments for both importers and exporters in a ‘no-deal’ scenario.

Importers

VAT

Deferred accounting

The new Import VAT Regulations will allow UK VAT registered businesses to account for the VAT due on any imported goods through their periodic VAT returns rather than declaring and paying import VAT when the goods arrive and are cleared at the UK border. This may lead to a significant cashflow advantage for UK businesses. Non-UK VAT registered businesses will not be able to benefit from this easement and will continue to be required to declare and pay import VAT when the goods arrive at the UK border.

EORI number

UK businesses trading with the EU will need a UK Economic Operator Registration and Identification (EORI) number.

An EORI number allows a business to trade goods into or out of the UK, submit customs declarations and apply for customs simplifications and procedures.

Intrastat

Currently, UK businesses bringing goods into the UK from the EU are required to complete Intrastat Arrivals declarations (supplementary returns for statistical purposes). This will no longer be required.



Registration for EU suppliers importing goods into the UK

EU suppliers moving goods into UK currently benefit from a number of administrative simplifications, such as for triangulation, call-off stock, installed and assembled goods, services connected with immovable property and UK distance selling [under the threshold]

If the UK leaves the EU without a deal, such businesses will need to register for VAT in the UK if they act as importer into the UK.

Registration for telecoms/broadcasting/digital services imported/supplied to consumers in the UK

The UK will no longer be part of the VAT “Mini-One-Stop-Shop” MOSS system. Non-UK businesses that supply specific digital services to a UK consumer will be required to register for VAT. The current threshold of €10,000 for cross border sales of digital services will no longer apply.

Any Non-EU business registered under the Non-Union MOSS system in the UK will need to register in another EU member state e.g. Ireland.

Supplies by EU businesses to UK non-business customers

Under the current rules, the place of supply of certain services to non-taxable persons established outside the EU is where the customer belongs and, as such, the supply of these services should not be subject to EU VAT.

The services include:

- Transfers and assignments of copyright, patents, licences, trademarks and similar rights
- Advertising services
- Services of consultants, engineers, consultancy bureaux, lawyers accountants, and similar services, data processing and provision of information, other than any services relating to land
- Banking, financial and insurance services (including reinsurance), other than the provision of safe deposit facilities
- The provision of access to, or transmission or distribution through a natural gas system situated within the territory of a member state or any network connected to such a system, or an electricity system, or a network through which heat or cooling is supplied. As well as the provision of other directly linked services
- The supply of staff
- The letting on hire of goods other than means of transport.



Customs

Temporary trade tariff

The UK government has released a temporary trade tariff for at least 12 months following a no-deal Brexit. All industries except for food and motor vehicles will have a nil rate of duty during this period (85-90% of commodity codes). To see commodity codes which will have a positive rate of duty during this time period go to the GOV.UK website and search for temporary rates of customs duty on imports after EU exit.

Import declarations and shipping documents

There will be extra administrative costs and financial burdens in a 'no-deal' Brexit scenario. All arrivals from the EU into the UK will become imports (ie treated as if the movement is from a third country under the current rules) into the UK. Businesses will need to either

- complete import customs declarations and have the appropriate shipping documents available to clear the goods in the UK, or
- appoint a customs agent (which, for businesses new to importing will make the process simpler and faster).

Incoterms

INCOTERMS are international terms of trade, under which transactions are made. They determine the responsibilities of the buyer and the seller in the international supply chains. UK businesses should check the existing INCOTERMS within commercial contracts to determine whether a 'no-deal' Brexit will cause additional import obligations.

Please note that the new INCOTERMS 2020 have just been released and will come into effect 1 January 2020.

Transitional simplified procedures (TSP)

HMRC has introduced new Transitional Simplified Procedures (TSP) for customs, to make importing easier for the initial period after the UK leaves the EU should there be 'no-deal'.

Once registered for TSP, a business will be able to transport goods from the EU to the UK without having to make a full customs declaration at the border and will be able to postpone paying any import duties.

The new procedures reduce the amount of information that importers need to provide in an import declaration when the goods arrive in the UK.

TSP will remain in place for at least a year to give affected businesses sufficient time to prepare for the import processes that will be required for trading with the rest of the world. To qualify to register for TSP a business will need to meet the following criteria:

- have a UK EORI number
- be established in the UK
- have a registered office in the UK (for corporate bodies) or
- have a permanent place of business in the UK where business activities are undertaken
- import goods from the EU into the UK.



Exporters

VAT

Registration for UK suppliers importing goods into the EU/fiscal representation

UK suppliers importing goods into EU post Brexit will likely need to register for VAT in the member state of importation. Simplifications which will not be available post Brexit include:

- triangulation
- call-off stock
- installed and assembled goods
- services connected with immovable property
- EU distance selling (under the threshold)

Depending upon the member state concerned, a UK business importing goods into an EU member state may need to pay import VAT there when the goods arrive and appoint a local fiscal representative.

EORI number

UK suppliers to the EU who wish to import goods into the EU will need to obtain a valid EU EORI number. This should be obtained from the customs authority in the EU country into which the goods are being imported.

Registration for telecoms/broadcasting/digital services imported/supplied to consumers in the EU

Suppliers established in the UK will no longer be able to use the Union MOSS Scheme. Businesses supplying such digital services can either register for VAT in each of the EU member states where customers are located, or they can register for the non-Union Scheme in one of the remaining EU member states.

Supplies of insurance and financial services to EU customers

Currently the VAT Directive provides for deduction of input tax attributable to certain exempt supplies such as insurance and financial services where the services are supplied to persons belonging outside the EU or where the services are closely connected with an export of goods from the EU. This is interpreted into UK law through the Specified Supplies Order 1999.

Post Brexit the new regulations extend the existing treatment so that UK businesses will be able to reclaim input VAT in relation to specified supplies made to customers established in the EU. As before, however, no input VAT recovery will be allowed on costs associated with supplies to UK customers.

UK tour operators

Based on the current new TOMS regulations, under a 'no-deal' Brexit, UK tour operators will gain a competitive advantage after Brexit, with no liability to account for UK VAT where a tour takes place wholly within the EU. UK VAT will only be payable on the margin related to tours that take place within the UK.

EC sales lists and intrastat

UK businesses making supplies to EU business customers will no longer be required to submit EC sales lists or Intrastat dispatch declarations.

Customs

Export declarations and shipping documents

There will be extra administrative costs and financial burdens associated with exports in a no-deal Brexit scenario. All movements of goods from the UK to the EU will be regarded as exports (treated as the movement from the UK to a third country under the current rules). Businesses will need to complete export customs declarations and have the appropriate shipping documents as proof of the export or appoint a customs agent to assist.

Trade agreements and origin

The stated aim of the UK government is to get trade agreements, and this is in relation to the origin of the product. Once the origin of the goods is determined goods can be classified and agreements in place with countries can be established. Where an agreement exists, goods can qualify for any preferential treatment - for example, reduced or nil rate of duty, which that agreement may allow.

Export licensing

A range of goods are subject to export control, and penalties for export licensing can be criminal and civil and therefore businesses engaged in the export of such goods should apply for an export licence if the goods require one.

Community transit

When moving goods between the EU which pass through different EU countries en route to the final EU destination country, businesses can use the Common Transit Convention (CTC) to move their goods quicker because customs declarations are not required at each border crossing and customs duties (if due) are only ever payable when the goods reach their final destination. The UK will remain part of the CTC under a no-deal Brexit – and goods going from country to country can use Community Transit.

Grant Thornton

Grant Thornton has a national team of VAT and Customs specialists. If you wish to discuss any aspect of the indirect tax issues outlined in this briefing paper, please contact your usual Grant Thornton advisor.



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