

The latest VAT developments that could affect you or your clients' businesses

Ladles and jellypoos



*Ladles and jellypoos,
I come before you, to stand behind you,
To tell you something I know nothing about”.*

Origin unknown

With less than 6 months to go ...

There are now fewer than 6 months before the UK ceases to be part of the EU. Not much is clearer - especially from a VAT point of view - than it was in March 2017. On 23 August 2018, the Government issued a document entitled “VAT for businesses if there’s no Brexit deal”.

Why publish this document now?

Or indeed, why publish it at all? It is possibly the thinnest and most unhelpful official publication that I have seen in 30 years of advising on VAT. Much of it is taken up with attempts to justify publication. Unsurprisingly, these sections are hard to paraphrase or precis in the absence of an overall lack of intellectual fibre or substance. To give a real feel for this awful stuff, there is no better alternative to the following quotation:

“A scenario in which the UK leaves the EU without agreement (a ‘no deal’ scenario) remains unlikely given the mutual interests of the UK and the EU in securing a negotiated outcome.

“Negotiations are progressing well and both we and the EU continue to work hard to seek a positive deal.

“However, it’s our duty as a responsible government to prepare for all eventualities, including ‘no deal’, until we can be certain of the outcome of those negotiations.

“For two years, the government has been implementing a significant programme of work to ensure the UK will be ready from day 1 in all scenarios, including a potential ‘no deal’ outcome in March 2019.

“It has always been the case that as we get nearer to March 2019, preparations for a no deal scenario would have to be accelerated. Such an acceleration does not reflect an increased likelihood of a ‘no deal’ outcome.

“Rather it is about ensuring our plans are in place in the unlikely scenario that they need to be relied upon.”

Will VAT advisers be out of a job?

No, not that any of us feared that Brexit, hard or soft, would remove the need for our services. This document recognises the vital part that VAT plays in funding public services and blandly asserts that:

“The VAT rules relating to domestic transactions will continue to apply to businesses as they do now.”

But this makes no mention of the fact that a no deal Brexit could leave HMRC in a much stronger position relative to businesses. The EU VAT Directives would presumably cease to have effect in the UK, let alone have a “direct effect”. Broadly, direct effect means that EU citizens can rely on the Directives, even if their own government fails to implement them properly into national legislation.

The paper’s attention then turns to some very specific areas relating to international transactions. Here I’ll only look at those of wider interest:

Imports by businesses of goods into the UK

Currently UK businesses that import goods from the rest of the EU into the UK account for the VAT through their VAT returns rather than at the border. Essentially this will continue under a postponed accounting system, which will also apply to non-EU imports. It will not apply to other import duties.

UK businesses exporting goods to the EU

Under this heading, the paper acknowledges that there may be issues at the EU border “So [businesses] should check with the EU or Member State the rules and processes which need to apply to their goods.” In other

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words, "We don't have a clue", an impression that pervades this paper.

Exports to EU consumers

As if announcing good news, the paper reports that exports to EU consumers will be subject to zero-rating, as the distance selling rules will no longer apply. But it then acknowledges that VAT and import duties may be due on entry into the EU.

Exports to EU businesses

The paper suspects there will be no change here, except for an end to the requirement to file EC Sales Lists. Again, there is a reminder to check the import VAT rules in the member state where the goods are going. Businesses selling their own stock in EU countries are still likely to have to register for VAT in those countries.

UK businesses supplying services into the EU

Business as usual, apparently:

"If the UK leaves the EU without an agreement, the main VAT 'place of supply' rules will remain the same for UK businesses."

These rules would be derived from the international standards set by the Organisation for Economic Co-operation and Development ("OECD"). The paper refers the reader to the guidelines on the OECD website, which run to 116 pages!

Tour Operators' Margin Scheme ("TOMS")

"HMRC has been engaging with the travel industry and will continue to work with businesses to minimise any impact." (Sorry, we haven't a clue!)

Businesses in Northern Ireland importing and exporting to Ireland

There has been no devolved government in Northern Ireland since 16 January 2017, reflecting the lack of priority given by this Government to maintaining the benefits of the Good Friday Agreement. Against that background, one can only cringe at these reflections on what would happen on the island of Ireland in the event of a no deal outcome:

"In such a scenario, the UK would stand ready to engage constructively to meet our commitments and act in the best interests of the people of Northern

Ireland, recognising the very significant challenges that the lack of a UK-EU legal agreement would pose in this unique and highly sensitive context.

"This would include engagement on arrangements for land border trade. We will provide more information in due course."

At the end of this section the Government abdicates responsibility altogether, with a recommendation to those trading across the land border to:

"Consider whether you will need advice from the Irish government about preparations you need to make".

Conclusions?

Immediately after the referendum there were many professional firms publishing newsletters and holding seminars about the likely effects of Brexit and what businesses should do to be prepared. Arguably those marketing endeavours were premature. By stark contrast, with fewer than 200 days to go to Brexit day, this Government paper adds practically nothing and should not have been issued until there was more to say.



To discuss how this may affect your clients or your business, or to talk about a VAT issue in general - contact:

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