

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

## VAT and Brexit - Part 1

When I started the first draft of this Insight, the House of Lords was debating the second reading of the UK Internal Market Bill. With less than 9 weeks to 1 January 2021 and the end of the UK's period of transition from membership of the EU, the VAT landscape from 1 January 2021 still looks very uncertain. Much of what follows is vulnerable to change but I felt it was time to share the little we are being told. This Insight is in two parts and deals with the topic under 5 headings:

- A Cross-border supplies of services.
- B Exports of goods from Great Britain ("GB") to the rest of the world, apart from Northern Ireland ("NI").
- C Imports of goods into GB from the rest of the world, apart from NI.
- D Movements of goods between GB and NI.
- E Intrastat.

Part 1 deals with A - C above and Part 2 with D and E.

### A Cross-border supplies of services

I cannot find any current general guidance on [www.gov.uk](http://www.gov.uk) on the VAT treatment of cross-border B2B services after 31 December 2020. However, it is still possible to find the document published by HMRC on 23 August 2018 entitled "VAT for business if there's no Brexit deal". According to this document, the "place of supply" rules for services will remain unchanged and will continue to follow OECD guidelines. HMRC has not published anything to the contrary since. Therefore, it seems reasonable to conclude that the general rule for B2B cross-border services will continue to make the customer responsible for accounting for VAT under the reverse charge procedure. Presumably it will no longer be necessary for UK VAT-registered businesses to submit EC Sales Lists in respect of services supplied to VAT-registered businesses in the EU. Subject to any exemptions, they will continue to charge VAT on any supplies of services made in the UK, including services supplied to businesses and individuals in NI.



### B Exports of goods from GB

To export goods without charging VAT, from 1 January 2021 GB businesses will need:

- 1 An Economic Operators Registration and Identification ("EORI") Number;
- 2 To make a customs declaration; and
- 3 To have proof of export. This will be similar to the proof currently needed for supplies to VAT-registered businesses in the EU. See part 6 of HMRC Notice 703.

HMRC expects most businesses to appoint an intermediary, such as a freight forwarder, courier, or customs agent, to deal with their customs declarations. This makes sense, especially for any business that has previously only exported to the EU, as exporting (and importing) can be a complex process and costly if mistakes are made. Appointing an intermediary should also help businesses to negotiate the most appropriate terms of trade.

A GB exporter does not need to become involved in VAT accounting in any EU country to which they export their goods provided they are not the importer of record for duty purposes. If they are, then they will also need to do the following in the country of export:

- 1 Obtain an EU EORI number;
- 2 Pay import VAT;
- 3 Register for VAT; and
- 4 Charge local VAT to their customers.

In a number of EU countries, a non-established person who has to register for VAT must also appoint a fiscal representative. This is often costly, as the person

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appointed normally shares joint and several liability for their client's VAT obligations.



### C Imports of goods into GB

From 1 January 2021, GB businesses must account for VAT on goods imported from the EU or from any other country under what HMRC calls Postponed Accounting. This will be available to any VAT-registered business provided:

- 1 The goods will be used for the purposes of the importer's business. This includes goods imported for onward sale; and
- 2 The business has an EORI number.

Both the EORI number and the importer's VAT registration number must be declared when the business makes its customs declaration on importation. The process is very similar to the current system of accounting for VAT on an intra-EU acquisition: credit for the VAT is claimed as input tax in the same period as it is accounted for as output tax, subject to any adjustment for partial exemption.

Normally the VAT will be accounted for in the return for the period in which the goods are imported. However, if any of the following apply then the VAT would be accounted for when the goods are released into free circulation:

- Customs warehousing
- Inward processing
- Temporary admission
- End use
- Outward processing
- Duty suspension

In the case of excise goods, the VAT would be accounted for when the goods are released for home consumption.

Postponed accounting will not always be available to businesses that are authorised to delay their customs declarations. There are also different rules for imports of goods in consignments not exceeding £135 in value.

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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