

# BREXIT – VAT IMPLICATIONS

## 1. General

We will deal with the VAT implications by dealing separately with (a) Goods and (b) Services. Within the Goods section we will deal with the following –

1. Importing Goods into Great Britain (GB) from the European Union (EU) – B2B;
2. Exporting Goods from Great Britain (GB) into the European Union (EU) – B2B;
3. Distance Sales of Goods from the European Union (EU) to Great Britain (GB) – B2C;
4. Distance Sales of Goods from Great Britain (GB) to the European Union (EU)– B2C;
5. Northern Ireland Implications of VAT on Goods Movements.

We will separately deal with Services and also some other compliance and reporting issues arising.

## 2. VAT Implications – Goods

### a) Importing Goods into GB from the EU – B2B

Starting from January 1st, 2021 movements of goods between GB and the EU are treated as imports and exports as opposed to intra-EU dispatches or distance sales when GB was part of the EU.

For imports of goods into GB, the postponed method of accounting for import VAT applies. This means that import VAT will not be due at time goods are imported but can be accounted for in the GB importers next VAT return. This will also apply when goods are imported from outside the EU e.g., U.S.A., China and could result in significant cash flow savings for the importer.

However, this means that EU suppliers who move goods into GB may need to register for VAT in the UK.

### b) Exporting Goods from GB into the EU – B2B

GB exporters moving goods into the EU, may be required to obtain a VAT registration in the relevant EU country. The GB exporter will continue to zero-rate the sale of goods and retain documentary evidence that the goods have left GB and have in fact been exported to the EU.

EU member states will treat goods entering the EU from the UK in the same way as goods entering from other non-EU countries. This means import VAT is due when the goods arrive in the EU.

### c) Distance sales of goods

#### (i) B2C sales of goods from the EU to GB

From 1 January 2021, an EU company that currently charges its own local VAT on B2C supplies of goods to GB consumers should no longer do so. The previous distance sales threshold no longer applies, and EU suppliers must charge UK VAT on goods shipped from the EU to consumers in GB in consignments of £135 or less.

For consignments with a value over £135, import VAT and potentially customs duty will be due.

EU suppliers will now need to register immediately for UK VAT if they have been selling to UK consumers and the suppliers or their postal service have to declare and pay VAT due to HMRC via a new, quarterly filed VAT charged at the point-of-sale.

#### (ii) **B2C sales of goods from GB to the EU**

For the distance selling of B2C goods from GB to the EU, UK businesses will have an obligation to register and pay VAT in the relevant EU country on their supplies to EU customers. Those suppliers will also need to complete the necessary import declaration in respect of goods imported into the EU.

In addition, UK businesses with a foreign VAT registration in the EU may now face the obligation to appoint a special VAT fiscal representative. (This applies in 19 of the 27 EU states). These agents hold direct liability for any unpaid VAT, and therefore require cash deposits or bank guarantees in exchange.

### **d) Northern Ireland Implications of VAT on Goods Movements**

As and from 1 January 2021, Northern Ireland (NI) will continue to follow the EU's VAT rules for goods. However, the UK-wide VAT rules for services will apply to NI. Therefore, NI VAT-registered businesses will be required to follow a dual VAT regime from 1 January 2021.

As was the case before Brexit, the UK will continue to levy VAT and the rules relating to UK domestic transactions continue to apply to businesses. VAT procedures largely remain the same as those prior to 31 December 2020, but there are some changes to the VAT rules and procedures for transactions between the UK and EU member states.

The Protocol applies and you must be dealt with under the UK VAT system if you are UK VAT registered and either:

- your goods are located in NI at the time of sale;
- you receive goods in NI from VAT registered EU businesses for business purposes;
- you sell or move goods from NI to an EU Member State.

A separate NI VAT registration number is not required. However, you will need to put an "XI" prefix in front of your VAT number when communicating with an EU customer or supplier (your invoices will show an XI number ahead of your VAT number - for example, XI 123456789 - instead of GB).

The Protocol automatically applies if:

- your VAT registered address has a Belfast (BT) postcode;
- your VAT registration certificate shows a type of business that is not solely involved in the provision of services.

#### (i) **Trading goods between Northern Ireland and the EU**

For VAT registered businesses, the current VAT treatment should continue to apply to trade in goods between NI and the EU. The same processes and reporting requirements will apply with supplies of goods from NI to EU businesses treated as zero-rated intra-EU dispatches.

Supplies to consumers (B2C) will use distance selling rules. This means that the country-specific EU VAT will need to be accounted for when the level of sales in that EU country exceeds the annual distance selling threshold.

However, if NI continues to follow EU VAT rules for goods, there are some changes being introduced on 1 July 2021 which NI will have to implement. New EU rules on VAT will abolish distance selling thresholds. Any VAT due on supplies to consumers located in the EU will need to be accounted for under a One Stop Shop (OSS). B2C suppliers dispatching their goods from a single country will no longer be required to register for foreign VAT and complete multiple VAT filings in countries where they are selling. Those suppliers with existing foreign VAT registrations and who sell from stock in their country of residence (but not sales from stock held in other EU countries), may opt to close these non-resident registrations from 1 July 2021 and use the OSS report instead. The OSS will be filed, alongside their regular domestic VAT return, and will list all their EU sales. The supplier then remits the VAT due to their home VAT authority, which then forwards the taxes to the appropriate countries.

Non-EU suppliers may also apply to use the OSS regime, and just need to nominate any single EU state to register and file in.

NI can continue to claim any VAT incurred on goods in the EU through the EU's VAT refund system.

#### **(ii) Trading goods between Northern Ireland and Great Britain**

Trade in goods between NI and GB will be treated as imports and exports for VAT purposes.

The supplier will continue to charge its customers VAT and should show this on its invoices. The VAT charged will be accounted for as output VAT by the supplier as it is now with the customer reclaiming the VAT as input VAT.

There are only a small number of limited exceptions to this procedure e.g., where the goods are sold by an overseas supplier through an online marketplace, with the online marketplace will be liable to account for the VAT on these goods.

As regards compliance, transactions in goods between NI and EU businesses and consumers will continue as they do today and so the same processes and reporting requirements will apply.

### **3. VAT Implications - Services**

While the NI Protocol means NI will remain aligned with EU rules for trade in goods, NI will continue to follow UK rules for services.

The VAT treatment applicable to the supply of most business-to-business (B2B) services between the EU and the UK will largely remain the same, namely, the general rule that the place of supply is the place where the business receiving the services is established.

For Business to consumer (B2C) services the place of supply is the place where the supplier is established. However, as before, VAT is not due on certain services supplied to non-business customers established outside the EU, such as advertising services, the services of consultants, engineers, consultancy firms, lawyers, accountants and other similar services, the supply of staff and banking, financial and insurance transactions including reinsurance, amongst other exceptions. Where the services do not come under the list of usual exceptions and are supplied to a non-business

customer outside the EU, the relevant EU country VAT of the supplier will apply at the appropriate rate.

It is also important to bear in mind the Use and Enjoyment provisions which may apply in each case.

### **a) B2B services to GB from the EU**

If a UK business buys services from outside the UK, the reverse charge applies. VAT will be accounted for on the UK VAT return and a simultaneous credit for the amount of VAT due will be taken (where full VAT recovery applies).

Where an EU supplier provides services to a company based in the UK, then UK VAT will be due on those services.

### **b) B2B services to the EU from GB**

The general rule noted above still applies i.e., the supply is outside of the scope of UK VAT and should be zero-rated. The EU customer uses the reverse charge to show the VAT in their return. So, the EU business receiving services from a business based in the UK will result in the relevant EU country VAT being due on the services.

It is still required to obtain evidence of your customer being outside of the UK e.g., a valid VAT or tax ID number in their country of residence. Without this the B2C rule as outlined below applies.

### **c) B2C services to GB from the EU**

If a UK business sells services to customers in the EU, they will need to charge UK VAT at the applicable rate.

There are exceptions which still apply such as event and catering/restaurant services, land and property services and hiring transport, amongst others.

### **d) B2C services to the EU from GB**

In general, relevant EU country applicable VAT should not arise on the supply of certain services such as accounting legal, and consultancy work to B2C in GB or NI. So, where a UK business supplies accounting services to non-business consumers outside of the UK, the services are supplied where the customer belongs and are therefore outside the scope of UK VAT.

## **4. Other Issues**

Some other issues which arise as a result of the split include the following -

- UK businesses incurring EU VAT on travel, hotel or other expenses are no longer be able to use the 8th Directive online VAT reclaim system operated via HMRC. Instead, they must use the EU 13th Directive paper-based reclaim process. This requires individual claims to each country where there is a VAT claim. Last UK claims via the EU 8th Directive will be for the final quarter of 2020. The refund system process varies across each EU member state, so

businesses will need to check the exact requirements in each EU country where they incur VAT. NI businesses trading in goods can continue to use the existing EU VAT refund system.

- Intrastat reporting is still required in 2021 for imports and arrivals into GB from the EU. But they will not be required for dispatches / exports to the EU.
- UK businesses will no longer be required to produce EC Sales Lists (ESL) for their sales to EU businesses and EU businesses will no longer include the UK in their ESL's
- The UK is longer part of a supply chain triangulation simplification. This could affect a business supply chain. However, a UK business which also has an EU VAT number, can use that number in a triangulation that does not involve the UK.