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## BEYOND BREXIT

Update 1, January 2021

### VAT & CUSTOMS

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## **SO WHAT DOES THE BREXIT DEAL ACTUALLY MEAN FOR BUSINESSES?**

The UK has now left the EU and negotiations on the future trading relationship of the UK and the EU have ended with a deal agreed.

Whilst there is a feeling of great relief that a comprehensive UK-EU Trade and Cooperation Agreement (UK-EU TCA) has been struck, there are significant changes ahead.

Operating outside the EU Customs Union and Single Market impacts the movement of goods, people, and data. Although the deal does bring some certainty on many of the new trading rules, organisations must now be ready to understand and implement these changes in order to continue to trade effectively between the UK and EU from 2021 onwards.

In our first update, we focus on

### **CUSTOMS AND VAT**

- With clear and simple sections answering key questions;
- Links to resources, tools and further information

**This is a must-read resource for all businesses**



# UK VAT and Customs after Brexit

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From 1 January 2021 there will be significant changes to the way customs and VAT are dealt with when trade between the UK and EU takes place.

The UK government advises that business hire a customs broker, freight forwarder or equivalent agent to assist with customs in relation to both importing and exporting. You may also want to seek the advice of an accountant to ensure VAT is dealt with correctly.

## VAT

### **WHEN WILL VAT BE PAID ON IMPORTS?**

Generally, VAT will be payable upon import to the UK, although the UK government has introduced the postponement VAT payment system which will aide with cash flow.

The postponement VAT payment system permits businesses importing into the UK to account for VAT on their next VAT return; it also means the goods can be released from customs without a VAT payment required.

Note: there are different rules applying to goods imported/exported to/from Northern Ireland.

### **POSTPONED ACCOUNTING**

If declarations have been deferred, you

will need to estimate import VAT and then adjust it in your next VAT return once the declaration has been prepared and the calculated import VAT appears on a subsequent report.

Remember that import VAT should be calculated after duty and other costs. Because of this, it is unlikely to be acceptable to estimate import VAT based on the supplier invoice alone.

HMRC has suggested that non-UK established businesses may use postponed accounting. However, they will be required to use a third party (freight forwarder, customs agent etc.) to complete customs declarations. The non-established business must inform the person completing the customs declarations to select postponed

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## VAT

accounting and to enter the business's details as the consignee.

### **WILL C79S STILL EXIST?**

Yes, only if you pay import VAT upfront and choose not to use postponed VAT accounting. Otherwise, the equivalent will now be the postponed VAT online monthly statement. The postponed accounting report will form a vital part of your VAT accounting records. Therefore, you will need to download and retain copies for your records in case the information is no longer available online.

### **HOW DO YOU ACCESS YOUR POSTPONED ACCOUNTING MONTHLY STATEMENT?**

You will need to register for access with HMRC using a Government Gateway login linked to your Economic Operators Registration and Identification (EORI) number:

<https://www.gov.uk/guidance/get-your-postponed-import-vat-statement>

This statement will not be immediately available where a business has deferred its customs declaration under the phased introduction of border controls between 1 January 2021 and 1 July 2021. Therefore, businesses will need to estimate import VAT due using their records of imported goods.

### **IS LOW VALUE CONSIGNMENT RELIEF STILL AVAILABLE AND/ OR IS THERE A DE MINIMUS RULE?**

Low Value Consignment Relief (LVCR) is being removed. Previously, this exempted imports with a value below £15 from import VAT.

Online marketplaces (OMPs), where they are involved in facilitating the sale, will be responsible for collecting and accounting for the VAT.

VAT on imports with a consignment value of £135 or lower will have VAT applied at the point of sale, rather than applied as import VAT at customs. For B2C transactions this UK VAT will be charged and collected by the seller, but for B2B transactions the VAT will be reverse charged to the customer.

This means foreign sellers sending goods into the UK will now need to charge UK VAT and apply to be part of the UK VAT system when supplying goods with a value of £135 or less to non-VAT-registered individuals.

Businesses which receive goods of £135 or less will have to account for the VAT as part of the reverse charge procedure, declaring the VAT on their next VAT Return. Normal rules apply for the tax point, usually the invoice date.

Additionally, the recipient business should ensure the seller knows their VAT number, or the seller will have no choice but to treat it as a B2C sale and apply VAT.

### **DO UK BUSINESSES NEED TO REGISTER FOR VAT IN OTHER EU COUNTRIES?**

Distance sales thresholds will no longer apply.

As of 1 January 2021, when it comes to exporting goods to EU countries, the VAT situation also changes. Exports to EU countries are treated like those to non-EU countries, which is to say, they should be zero-rated for UK VAT.

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## VAT

This will apply regardless of whether you are exporting goods to a consumer (B2C), or to a business (B2B). In other words, there is no longer any need to observe distance selling regulations, or to verify the VAT status of the recipient business. This could mean businesses selling B2C to the EU need to register for EU VAT and appoint fiscal representatives depending on the requirements of the countries in which they sell.

### **WHAT IF YOU PROVIDE DIGITAL SERVICES AND HAVE USED MOSS PREVIOUSLY?**

You will still be able to use the Mini-One-Stop-Shop to make your return filing if you are a UK supplier of digital services selling to non-VAT registered customers in the EU.

However, after Brexit, the threshold of £8,818 (€10,000) will disappear for supplies of digital services between the

UK and EU non-VAT registered customers. UK suppliers must register in a single EU Member State and use the Mini One-Stop Shop (or register in every EU Member State where their clients are established) for digital services to declare all the EU sales, and the related VAT.

For EU businesses selling digital services into both the UK and the EU, you will be able to use the MOSS for EU supplies. For UK supplies, you must register in the UK and declare your sales to HMRC. You can no longer use the MOSS for these supplies from 1 January 2021.

### **WHAT IF YOU ARE NOT VAT REGISTERED?**

An importer that is not VAT registered will be able to pay VAT when the goods arrive in the UK. You will require a 'non-VAT EORI' for importing goods worth over £135.





# UK VAT and Customs after Brexit

## IMPORTING & EXPORTING

### MINIMAL VIABLE PRESENCE FROM A UK CUSTOMS PERSPECTIVE

HMRC have confirmed a UK company will be required, but the customs activities could be carried out from Ireland. Alternatively, a UK permanent establishment would be required and this would involve a physical presence in the UK where the customs operations are wholly or partly carried out. HMRC did advise that they have discussed this point internally last week, admit the guidance is not clear, and that it will be updated shortly.

### ECONOMIC OPERATORS REGISTRATION AND IDENTIFICATION (EORI) NUMBERS

To prepare for Brexit, HMRC has automatically provided Economic Operators Registration and Identification (EORI) numbers to VAT-registered businesses in the UK trading goods with the EU. However, it is likely that some businesses were missed. You should check to see if you have an EORI number if you trade or intend to conduct trade between the UK and the EU from January 2021. The EORI number is a way of identifying businesses or operators who export or import.

### CAN YOU STILL IMPORT GOODS AFTER 1ST JANUARY?

Yes, if you have an GB EORI number.

### HOW DO YOU GET AN EORI NUMBER?

Before you apply for an EORI number, you can check whether your business already has one by visiting the [online EORI checker here](#).

Businesses must apply for a British EORI number through HMRC. You should complete one application form if you are VAT registered and a different form if you are not. You may also be required to obtain a separate EORI for dealings with Northern Ireland.

When applying online, VAT-registered businesses will need to provide their VAT registration number. Businesses that are not VAT-registered will need to provide their national insurance number if they are a sole trader, or their company registration number if they are a limited company.

It can take up to five working days for HMRC to process your application. When it has been approved you will receive an email with your EORI number.

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## IMPORTING & EXPORTING

### **WHAT HAPPENS IF YOU HAVE A NON-VAT EORI?**

If you have also registered for VAT but your start date is 1st January this should only be considered a temporary arrangement. When your VAT registration is complete the EORI team will be able to update their system to link your old EORI to your VAT registration number and make sure your new EORI is up and running.

### **DUTY DEFERMENT**

Duty deferment is largely unchanged. You pay on each import unless you set up a duty deferment account. If you import regularly then paying VAT and duty monthly may make more sense from a cash flow perspective, than paying them upon importation.

A duty deferment account lets you do this, although your bank or insurance company will have to be willing to act as an approved guarantor on your behalf.

### **CAN YOU DELAY CUSTOMS DECLARATIONS?**

There will be no need to make import declarations for most goods at the point of crossing the UK border, or get authorisation in advance. This will be the case for six months, from 1 January 2021 to 30 June 2021, assuming you have a duty deferment account set up. Goods which are excluded include controlled goods such as alcohol and tobacco.

To qualify for delayed customs declarations your business must be in Great Britain (Northern Ireland has its own rules according to the Northern Ireland Protocol), and goods must have been in free circulation in the EU before they are imported into the UK. Additionally, you will need to be authorised by HMRC to

use simplified declarations. Your freight forwarder or customs broker will generally make these declarations for you. If you make declarations yourself, you should be registered for the CHIEF system and have CHIEF-compatible software.

### **WHAT HAPPENS AFTER 30 JUNE 2021?**

Simplified declarations can be used until 30 June 2021 for all qualifying goods from EU countries. After this date, a customs import declaration should be made for goods entering the UK from all other countries, including countries in the EU. These declarations can be complicated and should be handled by your customs agent or freight forwarder unless you have software which integrates with the government's CHIEF system. At some point, the UK government will replace this system with the Customs Declaration Service (CDS), already in use for goods moving in and out of Northern Ireland.

You may not have to create full customs declarations every time you import goods. Most goods imported into the UK can use the simplified frontier declaration system which permits the goods to pass UK customs more quickly. A supplementary declaration is later made for goods imported under the simplified frontier declaration.

You will need to be authorised to use the simplified declaration procedures, you will need a duty deferment account, and you require access to the CHIEF system.

### **CAN YOU STILL EXPORT GOODS AFTER 1ST JANUARY?**

From 1 January 2021, you will need to make customs declarations when exporting goods to the EU. These rules currently apply to exporting goods to the

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rest of the world, including Switzerland, Norway, Iceland, and Liechtenstein.

You can make the declarations yourself, but most businesses use a courier, freight forwarder or customs agent.

### **WILL YOU STILL HAVE TO FILE AN INTRASTAT RETURN?**

From 1 January 2021, businesses importing goods into Great Britain (the UK excluding Northern Ireland) from the EU will need to submit monthly Intrastat reports if over the £1.5m reporting threshold. This only applies for 2021. However, businesses exporting goods to the EU will no longer be required to prepare Intrastat. Northern Ireland (NI) movements to and from the EU will be required until at least 2025.

### **Intrastat is required as follows:**

- Import goods into GB from EU – for entirety of 2021
- Import goods into NI from EU – until the end of NI protocol (2025)
- Export goods from NI to EU – until the end of NI protocol (2025)

### **CAN A BUSINESS MAKE ITS OWN CUSTOMS DECLARATIONS?**

Getting customs clearance can be complicated. Most business appoint a UK customs agent or hire a transporter to make the import declaration and clear the goods through UK customs.

If you plan on making your own customs declarations, please see the UK government's guidance:

<https://www.gov.uk/guidance/making-an-entry-summary-declaration>

A business needs to be established in the UK to meet a number of customs rules and to act as the declarant for UK customs relating to chargeable goods. This includes being able to obtain access to a wide range of customs authorisations and simplifications, such as:

- A special procedures authorisation
- Making simplified customs declarations
- Authorised Economic Operator (AEO) authorisation
- A comprehensive customs guarantee

### **WHAT IS THE DEFINITION OF "ESTABLISHED" IN THE UK FOR CUSTOMS PURPOSES?**

For a company this will be either a UK legal entity (e.g. a UK company) with a registered office in the UK or a permanent business establishment in the UK.

A permanent business establishment is a place of business where staff are permanently employed and where the technical resources of the business are always present. Customs operations must be wholly or partly carried out there.

HMRC have confirmed that if a UK company is used as the declarant for customs purposes a UK registered office is sufficient; the customs duties may be physically performed outside of the UK.

Further guidance can be found here: <https://www.gov.uk/guidance/check-if-youre-established-in-the-uk-or-eu-for-customs>



For more information, please

## GET IN TOUCH

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The information contained within this booklet is for guidance only and does not replace the advice of an industry professional, which should be sought when undertaking a project of this nature.

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