

Brexit VAT

(Lectures B1219 – 15.24/ Lecture B1220 - 18.43 minutes)

Key principles

- EU and non-EU imports of goods to be treated in the same way;
- Level playing field for UK businesses i.e. no VAT free imports by an overseas seller;
- Overseas sellers to pay correct VAT on goods they sell which are already in the UK;
- Northern Ireland Protocol – includes VAT issues and separate procedures. For example, a business in Northern Ireland will buy and sell goods within the EU in the same way as now i.e. VAT free acquisitions and dispatches rather than imports and exports. This is necessary to create a soft border between Northern Ireland and Ireland, i.e. to avoid problems with the Belfast (Good Friday) Agreement.

Issues for UK importers

Postponed accounting will be introduced for worldwide imports i.e. EU and non-EU imports of goods. This means that VAT is not payable by a VAT registered business at the time goods arrive in the UK; entries are instead made by the UK importer on their relevant VAT return:

Box 1 – output tax

Box 4 – input tax – subject to any restriction for non-business or private use; or restriction with partial exemption

Box 7 – inputs – net value of goods.

Postponed accounting will produce a big cash flow saving for businesses because no VAT is payable at the time of import. Note – postponed accounting is optional for a business but it makes sense to adopt it from 1 January 2021 as soon as new procedures apply.

Three stages for introduction of new procedures

The following timeline has been included by HMRC in its main policy document about the new rules, headed: The Border with the European Union – Importing and Exporting Goods. The document is 206 pages long and was issued in July 2020. It can be downloaded from the HMRC website.

1 January 2021 – importing standard goods e.g. clothing and electronics. Basic customs requirements must be met but up to six months allowed to complete and submit customs declarations. Duty will be payable but can be deferred. No UK Safety and Security declarations needed for the first six months. Standard customs declarations are needed for controlled goods and excise goods e.g.

alcohol and tobacco. Export declarations and UK exit Safety and Security declarations are required for all goods.

1 April 2021 – extra rules re animal products – meat and eggs etc. – no VAT issues

1 July 2021 – full customs declarations to be made at the point of importation and pay relevant tariffs. Full Safety and Security declarations needed.

Key issues

- NORTHERN IRELAND PROTOCOL - is separate and needs to be considered by business either based in Northern Ireland or who trade in goods with Northern Ireland businesses.
- CUSTOMS DECLARATIONS – needed for both imports and exports of goods into/from the UK.
- CUSTOMS DUTIES – UK Global Tariff (new) – dependent on origin of goods, classification, customs value of goods.
- VAT – EU will be treated the same as the rest of world. Postponed accounting for VAT registered importers is an option. Non-VAT registered importers pay VAT at same time as duties.
- SAFETY v SECURITY DECLARATIONS – information about movement of goods for both imports and exports.
- DUTY DEFERMENT ACCOUNT (DDA) – is needed by any trader making a deferred declaration until July 2021 because deferred declaration also means deferring the duty payable. Duty is paid monthly with a DDA rather than on each consignment.
- EORI NUMBER – must be “GB” number – 10 minutes to apply for EORI number on line – one week to be issued – most UK businesses will already have a number if they are involved with overseas trading.
- COMMODITY CODE – important part of process.
- CUSTOMS VALUE – needed to make a customs declaration and to calculate duties on an import.
- IMPORT AGENT – do you use an agent or make your own declarations? If the latter, this will be done by accessing HMRC’s CHIEF system – and having a “CHIEF badge.” Most businesses use an agent: “Customs declarations are complex” – quote from HMRC guidance.
- INTRASTAT CONTINUES FOR ARRIVALS – for at least 2021 – information from these reports is needed by government to record details of imports from EU countries – this information will not be accurate because many customs declarations will be delayed for six months as explained above – hence need for Intrastat arrivals to still be reported. But intrastat dispatches will be abolished apart from in Northern Ireland.

- EC SALES LISTS – to quote from HMRC press office (20 August 2020): “EC Sales Lists will only be required for sales of goods to EU businesses that are treated as intra-Community dispatches under the terms of the Northern Ireland Protocol. They will not be required for any supplies of services or any supplies of goods that are treated as an export.”

Note – to quote from the HMRC guidance:

“Free trade agreements between the UK and the EU, and between the UK and other countries, may reduce or remove tariffs on some goods. The origin of the goods will determine whether they are eligible under these arrangements for those preferential tariffs.”

Exporters – key issues

- EORI number – GB;
- Customs declarations – intermediary/agent used in most cases;
- New tool is available – “check duties and customs procedures for export of goods” on gov website;
- UK Safety and Security declaration – needed in all cases;
- Certificates or licences to import certain products into EU will be needed by UK exporters e.g. food, live animals, chemicals/drugs.

Consignment value

Goods outside UK and consignment is less than £135

Note - £135 is ‘consignment value’ and not each individual item being sold.

From 1 January 2021, consignments < £135 will be subject to ‘supply VAT’ when sold to customer and not ‘import VAT’ when they arrive in the UK. If a consignment exceeds £135, import VAT applies when the goods enter the UK so therefore no supply VAT is charged at point of sale.

Low Value Consignment Relief – £15 – is being abolished from 1/1/21.

Online marketplaces

Online marketplaces (OMPs) where involved in the sale will be responsible for collecting and accounting for VAT. This also applies if goods are already in the UK at time of sale, irrespective of their value.

What is an OMP? - any electronic interface that facilitates the sale of goods to customers.

Direct sale <£135 - overseas business sells directly to UK consumers i.e. no OMP is involved in the deal. The overseas seller must register for VAT in the UK and account for sales VAT to HMRC. Same approach if goods are already in UK and sold by overseas seller without OMP involvement i.e. as is the case now.

The overseas seller (or OMP) liable to account for output tax, must provide the customer with a VAT invoice at the time of the sale. For direct sales by an overseas seller, a VAT invoice must accompany the goods in transit. This allows HMRC to do risk-based checks at border.

B2B sales where UK customer is VAT registered – reverse charge if less than £135

Example

John is VAT registered in the UK and buys a print cartridge directly from a French supplier for £50. The value is less than £135 so no import VAT is due on arrival in the UK. John accounts for £10 VAT on his own return by doing the reverse charge calculation. If John fails to give his VAT number to the French seller, he will be treated as B2C and charged £10 UK VAT by the French supplier (or OMP) i.e. supply VAT rather than import VAT.

No changes to excise goods or non-commercial transactions between private individuals.

End result – no VAT is paid at border when goods arrive if < £135 but customs declarations are still made.

OMP – if involved in a deal, they are deemed to be making the supply of goods to the UK consumer – plus UK VAT at appropriate rate.

Note – the value for VAT purposes is the amount paid by the final customer

UK VAT registration will be needed for any business that operates as an OMP that facilitates sales of goods to UK customers.

Note – if stock is already in the UK at the time of sale (no OMP) – the same rules apply as before 1 January 2021 i.e. UK VAT registration is needed by overseas seller who is making taxable sales in UK – zero registration threshold.

Goods in UK at point of sale – any value - owned by overseas seller – sold to consumer through OMP.

If a consignment exceeds £135, then import VAT is due when the goods arrive in the country.

The onward sale of goods is deemed to be made by the OMP and not by the overseas seller in all cases if the goods are in the UK at the time of the sale, irrespective of value. The overseas seller is not supplying goods to the consumer. At the time of the sale, the overseas seller makes a zero-rated sale to the OMP. This is a taxable sale so means the overseas seller must be VAT registered in the UK (nil registration threshold) to both zero-rate the sale to the OMP and claim import VAT through postponed accounting and input tax on other costs. A Box 6 entry is made on the UK VAT return of the overseas seller.

However, if the buyer of the goods is VAT registered in the UK, the sale is deemed to have been made by the overseas seller and not the OMP.

Example – post 1/1/21

Overseas seller Andre is based in Italy and imports a table worth £500 into the UK which will be sold on Amazon i.e. an online marketplace (OMP). Andre is registered for VAT in the UK and Italy. The table is stored at a warehouse until a customer is found. No VAT is payable at import (postponed accounting) but the goods are declared for customs purposes – Andre accounts for output tax of £100 and claims input tax of the same amount on his relevant UK VAT return i.e. by adopting postponed accounting.

The table is sold for a higher price than expected – a B2C sale for £700 plus VAT. The OMP (Amazon) charges £140 VAT to the UK buyer and issues a VAT invoice, accounting for output tax on its next UK VAT return. Andre invoices the OMP for a zero-rated sale of £700 from his UK registration. He includes this in Box 6 of his UK VAT return. The OMP charges a platform fee of £70 to Andre in Italy based on 10% of the selling price i.e. £70. Andre will account for the reverse charge on his Italian VAT return on the payment of £70 made to the OMP, based on the Italian rate of VAT.

If the table was purchased by a VAT registered business in the UK, which supplied its VAT number to the OMP (Amazon), the sale is deemed to have instead been made by the overseas seller (Andre) and not the OMP. He will charge £700 + £140 VAT rather than the OMP.

Note – Andre must be VAT registered in the UK because of the nil registration threshold for a non-UK business. He needs a VAT number as soon as he intends to start trading in the UK.

Note – there are no changes to the rules for non-OMP sales of goods where the goods are already in the UK at the point of sale (i.e. VAT is accounted for by the overseas seller as an NETP). An NETP must register for VAT as soon as it intends to make UK sales because of the nil registration threshold.

Note – a UK customer is defined by the delivery address of the goods and not the billing address, although this will be the same in most cases.

Note – postponed accounting on imports is recorded in Box 1 and not Box 2 of the importers VAT return – along with relevant entries in Box 4 and 7.

Key issues for OMPs

- Location of goods at time of sale – inside or outside UK?
- If outside UK, is value excluding VAT less than £135?
- If goods are in UK, is seller based in UK or an overseas seller?
- If goods are being sold by an overseas seller, is buyer registered for VAT in UK?
- Rate of VAT that applies to the goods being sold – 0%, 5%, 20%?

Key quote from HMRC guidance:

“OMP liability will not apply to business to business sales where the goods are in the UK at the point of sale. The business recipient will need to provide a valid UK VAT registration number to show that the supply is business to business sale. If this is not provided the sale should be treated as a business to consumer transaction. Where a valid VAT registration number is provided the supply will be from the overseas OMP seller, rather than the OMP, to the business recipient and will follow existing VAT rules. There will be no reverse charge applied to this transaction.”

Other issues

- Goods sold by UK business (outside of Northern Ireland) into Northern Ireland – VAT supply in UK as now but there is a new digital import declaration requirement. A Trade Support Service will provide help on this new administrative requirement.
- Exports – goods leaving the UK will be exports – no despatches after 31 December 2020 - distance selling thresholds will no longer be relevant for B2C sales of goods into an EU country that exceed 35,000 or 100,000 Euros on a calendar year basis.
- Call-off stock – held in EU countries by a UK business. No need for a UK business to register for VAT in that country at the moment – acquisition tax accounted for by known customer (must be VAT registered) at the time of call-off. But UK business will need an overseas VAT number in that country from 1 January 2021 i.e. to import goods into the country and then charge domestic VAT when onward sale is made.

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