



Tax alert

VAT and Customs

EU publishes guidance on Brexit consequences for Customs and VAT

In a 29 January 2018 [press release](#), the Council announced a second set of supplementing negotiating directives detailing the EU27 (EU member state gathering without the UK) position regarding a transition period in relation to Brexit. These directives present a transition period that could not last beyond 31 December 2020.

Then on 30 January 2018, the EU Commission published a [document](#) giving businesses an early warning regarding key Customs and VAT challenges that they will need to tackle the moment the United Kingdom would no longer be a Member of the European Union. Unless a transitional period is agreed upon between the EU and the UK, the EU Customs and VAT rules will no longer apply in the UK from 30 March 2019.

Background

On 29 March 2017, the UK officially communicated its intention to withdraw from the EU. In principle, this would mean that from 30 March 2019, all EU law would cease to apply in the UK.

Negotiations are currently ongoing with the aim of reaching a withdrawal agreement.

Progress status

The Council, meeting as 27 Member States (i.e. without the UK), adopted supplementing negotiating directives that detail the EU27 position regarding a transition period. The proposed end date for the transition period in the negotiating directives is 31 December 2020. These negotiating directives also provide the Commission with a mandate to start discussions with the UK.

VAT and Customs consequences

EU ministers envisage the EU acquis' full and continued applicability in the UK during the transition period. However, the UK would no longer participate in EU institutions and the decision-making process.

On 30 January 2018, the European Commission issued a document that provides a high-level overview of the Customs and VAT consequences that would follow the actual 'withdrawal date': valuable reading for businesses that have UK connections and interests.

The document flags the different VAT and Customs consequences when shipments to and from the UK will qualify as import and export, rather than intracommunity sales (including lodging customs declarations, application of customs duties, etc.).

The document also underlines that a number of licenses (i.e. customs licenses, AEO status) authorised by the UK government will no longer be valid within the EU, and that imports in the UK can no longer benefit from any preferential tariff agreements reached by the EU with third countries.

A number of other points are also briefly addressed, such as the fact that the UK can no longer use the EU MOSS system and the VAT refund claims procedure once its EU membership ends. Moreover, once they are considered as non-EU companies, UK businesses may need to appoint a fiscal representative in a number of Member States for their local VAT registrations.

On 7 November 2017, the UK Government also published a draft [Taxation \(Cross-border Trade\) Bill](#), a piece of primary legislation aimed at outlining the UK's post-Brexit customs and VAT legal framework. At this stage, detailed provisions in many areas are lacking. The Bill underwent its second reading in Parliament on 9 January 2018. There is currently no stated position regarding a transition period, but this will likely be addressed by a series of upcoming Government statements. According to a briefing paper on the Bill, it is designed to be flexible enough to deal with a range of possible negotiation outcomes, including a transitional agreement and a scenario in which no deal is reached.

Going forward

Belgium's strong economic ties with the UK means that the former's economy is highly vulnerable to any impact brought by Brexit.

As things stand, the final form that Brexit takes and its timing cannot be forecast due to the current uncertainty.

While maintaining a certain degree of optimism, it is recommended for companies to ensure preparations are in place for the worst possible outcome, which is the "hard Brexit" scenario. Although there are many other issues to consider, VAT and customs implications will be at the forefront of Brexit preparations.

Deloitte's experts are prepared to assist companies in mapping out the priority issues in preparing for Brexit.

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