



VAT alert Belgium

Brexit impact on e-commerce transactions: are you ready for new UK VAT rules?

With the end of the Brexit transition period fast approaching, Belgian and EU businesses supplying goods within or to Great Britain (GB) should prepare for the newly proposed UK VAT rules as of 1 January 2021.

The VAT treatment of supplies of goods from the EU to Northern Ireland will, in principle, not change as of 1 January 2021. As far as supplies of goods are concerned, the Northern Ireland jurisdiction will remain subject to the intra-EU VAT rules, including the e-commerce changes on 1 July 2021.

Belgian VAT treatment of sales to GB

Until 31 December 2020, B2B supplies of goods from Belgium to GB are considered VAT exempt intra-Community supplies. For B2C sales of goods from Belgium to GB, the supplier needs to apply Belgian or UK VAT, depending on whether their B2C sales into the UK exceed the annual distance selling threshold of GBP 70,000.

As of 1 January 2021, supplies from Belgium to GB will – subject to specific requirements – qualify as VAT exempt exports from a Belgian point of view, regardless of whether the customer is a business or end consumer. While this new VAT treatment seems quite clear from a Belgian perspective,

the question is what obligations the supplying company could incur on the GB side.

Introduction of new UK VAT obligations

As of 1 January 2021, the UK government will introduce new rules for the VAT treatment of goods arriving into GB from outside its territory. Businesses bringing goods from Belgium or the EU into GB may need to apply for a UK VAT number, due to the fact that they potentially have to account for UK VAT on imports and/or local supplies to their customers in GB.

The new rules are not straightforward, as the UK VAT treatment will depend on the consignments' value (GBP 135 or less), the customer's VAT status (i.e. UK VAT registered business or consumer), the goods' location at the moment of supply (i.e. inside or outside GB) and the possible involvement of an online marketplace (OMP).

Goods already in GB at moment of supply

When a Belgian or EU supplier has goods already in GB at the point of sale, the supply will (as currently applicable) be deemed a local one. The supplier will need to account for UK VAT on this supply, regardless of whether the supply is made to a business or end consumer. There is no UK VAT registration threshold for an overseas company without UK establishment. The supplier will hence be required to apply for a UK VAT number from the first effective sale.

Such UK VAT registration may not be required for Belgian or EU suppliers that only sell to end consumers (B2C) in GB, through an online marketplace facilitating the supplies. In such a case, the OMP will be deemed supplier and thus liable to account for UK VAT on the consumer sale. The supplier will make a zero-rated supply to the OMP, for which no VAT registration obligation occurs.

OMP liability will not apply if the customer provides a valid UK VAT registration number. In such a case, the OMP should notify the supplier and provide them with the customer's UK VAT number. The supplier will need to invoice the customer directly and account for UK VAT.

Goods shipped from outside GB at moment of supply

When goods are located outside GB at the moment of their supply, but ultimately destined for the GB market, the overseas (Belgian) supplier may need to import the products in GB before supplying these to its customers. This will be the normal approach for B2C supplies, but can also be a requirement for B2B supplies if the overseas supplier is designated as importer in GB, based upon an agreement between the contracting parties.

A specific VAT regime will apply to consignments qualifying for customs duty relief with a value of GBP 135 or less. No UK VAT needs to be paid on such consignments at the border (customs declarations will still be required). UK VAT will be

accounted for on the sale of these goods, which will depend on the type of customer:

- If the customer is not a taxable person, or does not provide the supplier with a valid UK VAT registration number upon purchase, the supplier should account for UK VAT on the supply.
- If the supplier is provided with the customer's UK VAT registration number, the customer will be required to account for VAT liability through a reverse charge. The supplier should include a reference in their invoice to the UK business customer, to make it clear that the customer needs to account for VAT ('reverse charge' for instance).

If an OMP is facilitating supplies of imported consignments below or equal to GBP 135 in value, the OMP will be deemed to be making the supply to the UK customer and will itself have the obligations described above, instead of the foreign supplier.

For consignments imported into GB and above GBP 135 in value, a UK VAT registered business will be able to use postponed VAT accounting to account for import VAT. This means that the business will be able to declare and recover import VAT in the same VAT return, subject to normal VAT recovery rules. This new procedure will be known as 'postponed VAT accounting' (PVA), and no authorisation from HMRC will be required.

Conclusion

Companies conducting business with GB should very much prepare for new VAT rules coming into play. They may be forced to apply for a UK VAT number, or collect additional data from their customers. A careful screening of the new VAT treatments and the impact on a company's business transactions is necessary to overcome potential issues when Brexit comes into full force from 1 January 2021.

Contacts

If you have any questions concerning the items in this alert, please contact your usual tax consultant at our Deloitte office in Belgium or:

- Johan Van Der Paal, jvanderpaal@deloitte.com, + 32 2 600 66 39
- Bram Fouache, bfouache@deloitte.com, + 32 3 800 86 13
- Veronique Vermeersch, vvermeersch@deloitte.com, + 32 2 600 66 30
- Nathalie Wittock (Deloitte Legal), nwittock@deloitte.com, +32 2 800 70 11

For general inquiries, please contact:
bedeloittetax@deloitte.com, + 32 2 600 60 00

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