



VAT impacts of Brexit for Financial Services and Insurance companies

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VAT impacts of Brexit for Dutch Financial Services and Insurance businesses

Financial Services and Insurance (“FSI”) businesses as well as holding and treasury companies trading in, with, or through the UK only have a few months to plan and take action in preparation for the post-Brexit environment.



Why should FSIs consider VAT?
While many FSI businesses are not required to charge VAT, this means that they **cannot deduct VAT** incurred on the associated business related expenses.

This gives rise to significant irrecoverable VAT costs for FSI businesses - for which VAT is an above-the-line cost.

With a standard Dutch VAT rate currently at 21% , this could mean an additional 1 % VAT cost for businesses moving to the Netherlands from the UK.

On the other hand, Dutch FSI businesses with UK customers can see a positive effect on their pro rata recovery rate.

Prepare for change
A number of areas will change irrespective of the outcome of the UK/EU negotiations bringing many tax consequences, with VAT costings and processes falling firmly into that category.

Tax teams need to prioritize Brexit implications and make sure that VAT is integrated into business decision-making.

Key post-Brexit VAT impacts for FSIs from 1 January 2021
We have outlined some of the key VAT impacts arising as a result of Brexit that FSI businesses moving to The Netherlands should consider:

- **Pro rata calculation:** The UK will be seen as a third country and exempt transactions with UK customers will positively impact the pro rata calculations. There is even a case to be made that this applies since 1 February 2020. The systems and administration must be able to produce relevant supporting data.
- **Input VAT recovery:** What process changes are required to accommodate the new VAT accounting / input tax recovery rules under Dutch law? If certain business operations are transferred to The Netherlands, what is the impact on input tax recovery of costs for the wider corporate group?
- **VAT treatment of income and cost streams:** In many cases, the definition of what constitutes exempt FSI services is not applied uniformly across the EU. As such, businesses should ensure they are applying the appropriate (and optimal) Dutch VAT position to new business arrangements.
- **VAT rulings:** Businesses relying on VAT rulings implemented in the UK for business that is transferred may need to seek similar comfort from the Dutch tax authorities by way of a formal VAT ruling.
- **EU case law / Anti-avoidance:** Consider the interaction of EU provisions and case law with Dutch VAT law and practice (caselaw such as *Skandia*, *Ocean Finance*, *Morgan Stanley*, *Aspiro*).

- **Systems and data:** VAT systems, processes and data need to be reviewed and updates scheduled to allow sufficient lead time for implementation.
- **Cross border services:** Changes to where functions are carried out, assets are employed and risks are borne is likely to evolve over time. How the tax team interacts with the business operations on local regulatory and legal requirements is crucial. For example:
 - **Regulatory position** – how do substance, staff requirements etc. impact service delivery and therefore VAT (e.g. will the requirements change over time)?
 - **Legal agreements** – classifying certain services as back office / technology could create a VAT charge. Whereas, for example, if those services are akin to intermediary services could they be VAT exempt?
 - **Transfer pricing** – Could avoidable VAT costs be mitigated by bundling / unbundling services for transfer pricing purposes.
- **Continuous supplies and purchases:** The VAT of these supplies and purchases should be declared in the period which they are used. A distinction will therefore have to be made between supplies and purchases used before and after the Brexit.
- **Commodities:** As the UK will be considered a third country, commodity trading with UK may give rise to VAT recovery even if it is qualified as financing activity. UK parties trading in the Netherlands may need to appoint a Dutch fiscal representative.
- **Immigration:** Outside of indirect taxes, but no less important is to consider immigration aspects of UK nationals working in the Netherlands and vice versa.



How can Deloitte help?

Now that the dust is beginning to settle for many early movers, the focus is likely to have shifted to validating the VAT treatment of supplies post implementation and developing VAT processes, procedures and controls to manage VAT compliance in a post-Brexit landscape.

Our services include assisting FSI businesses to assess the impact of Brexit across business operations and validating the implementation of their Brexit planning.

- **VAT health check:** As Brexit-driven business solutions become operational; the VAT treatment of activities transitioned to The Netherlands should be reviewed and validated.
- **Manage VAT compliance:** Our Deloitte VAT compliance team combines deep FSI industry knowledge with technology to offer a differentiated solution for managing VAT compliance, including potential systems updates.
- **VAT processes, procedures and controls:** Prioritize and optimize VAT compliance based on business structure, operating model, location.
- **Engaging with Dutch Tax Authorities:** Liaising with Dutch tax authorities on Dutch VAT matters, including regularizing any issues arising from a 'lift and shift' of functions to The Netherlands and general post-Brexit implementation issues.
- **Cost mitigation:** Reviewing cost base to identify VAT savings, in particular, with respect to imported services.
- **VAT recovery methodology:** Considering the appropriateness of any new Dutch (or legacy UK) input VAT recovery methodology.
- **Customs:** Business supplies sourced from the UK will come with added customs formalities.



Why Deloitte?

Proven expertise

- Combines Brexit insights, industry knowledge and technical expertise to support our clients with their Brexit readiness.
- Our central Global Brexit Insights team collaborates with subject matter experts – such as tax technical, regulatory, and systems implementation, across our network of member firms – to help deliver solutions.
- Provide up to date insights, benchmarking and guidance on best practice to prepare businesses for the post-Brexit trading environment.

Leading voice

- We are a leading voice in navigating Brexit considerations with business and government.
- We engage with governments in The Netherlands, the UK and key EU Member States on Brexit preparations.

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