

Tax & Legal Weekly Alert

January 31, 2020

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BREXIT at midnight: Customs, VAT and Excise implications

On January 31, 2020, 00:00 The United Kingdom of Great Britain and Northern Ireland leaves the Customs Union and the Single Market of the European Union.

The BREXIT agreement was approved by the European Parliament, the Council of the European Union and the Parliament of the United Kingdom.

Changes regarding the method of declaring to the Environmental Fund

The year 2020 brings new obligations for economic operators with respect to submitting the monthly declarations to the Environmental Fund Administration.

Approval of the Romanian annual tax return form to be used in 2020



BREXIT at midnight: Customs, VAT and Excise implications

Transition period

The withdrawal agreement provides for a transitional period until 31 December 2020, in which the current European Union legislation continues to apply.

Consequently, with regards to customs duties, VAT and excise duties, the Union law (Union Customs Code, VAT and Excise Directive) applies to goods that move from the customs territory of the United Kingdom to the customs territory of the Union, provided that the movement started before the end of the transition period and ended thereafter.

Consequently, no customs formalities will be carried out during the transitional period, and the movement of goods between the United Kingdom and the European Union will be considered as intra-Community supplies and purchases.

Customs duties

After the end of the transitional period, customs tariffs (in case that a free trade agreement between the EU and the United Kingdom will not be concluded in the next 11 months), controls and other regulations regarding the export and import of goods will apply.

From a customs duties' perspective, it is imperative to plan the customs operations that will be carried out after the transitional period. For example, make sure that after the transition period:

- You have registered with the EU customs authorities in case of companies that have not carried out customs operations before and currently have operations with the United Kingdom.
- You have concluded customs representation contracts and you have identified the customs offices through which the import/ export operations will be carried out.
- You have identified the tariff classification of traded goods in order to know in due time the customs implications and customs debt that has to be paid at the time of import (customs duties, VAT, excise duties and other non-tariff barriers).
- You have determined the origin of the goods imported from the United Kingdom in accordance with the customs rules of origin.

VAT

From a VAT perspective, supplies of goods between the UK and the EU will be treated as exports and imports.

A possible immediate impact will be for UK companies that have direct VAT registration in Romania. Consequently, they will have to appoint a tax representative in Romania in the next period or otherwise, the VAT code may be cancelled.

Excises

Excise Movement and Control System (EMCS) will be available for excise goods moving from the customs territory of the United Kingdom to the customs territory of the Union or vice versa, provided that such circulation has begun before the end of the period transition and end after this period.

After the end of the transition period, supplies of excise goods will involve export and import operations. Thus, the movement under suspension of excise duty from the place of import into the European Union to final customers implies obtaining the registered consignor authorization.

Consequently, stakeholders have a short period of only 11 months to prepare the BREXIT implications. If you have business relationships with partners in the UK, we recommend mapping the transactions from a customs and VAT perspective to ensure business continuity.

For further questions regarding the aspects mentioned in this alert, please contact us.



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Changes regarding the method of declaring to the Environmental Fund

The Environmental Fund Administration (“**EFA**”) has announced on its website that starting with January 2020 the economic operators that have payment obligations to the Environmental Fund will be able to submit the monthly declarations **only electronically**. Nonetheless, the EFA informatics system is not yet functional, and, as a result, the declarations are still being submitted in hard copy.

Currently, there is no legal provision determining either the deadline for implementing the electronic submission of the declarations or establishing if this would be the only option for the economic operators. As per the discussions with the representatives of EFA, they estimate that within two months, the EFA informatics system will become functional.

Thus, we recommend you ensure that you meet the conditions to be able to submit the declarations electronically (e.g. an access account within the EFA informatics system and a qualified electronic signature).

For further questions regarding the aspects mentioned in this alert, please contact us.



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Approval of the Romanian annual tax return form to be used in 2020

The Romanian tax authorities (ANAF) approved the form and the applicable procedure for submission of the annual tax return that must be used by individuals for reporting the taxable income generated during year 2019. The form was approved by Order of the President of the National Agency for Fiscal Administration no. 139/2020, published on January 23, 2020.

Among the most important changes brought to the new form, we mention:

- the percentage from the income tax amount that the taxpayers can redirect for the purpose of supporting non-profit entities, cult units and private scholarships was changed in the tax form to 3.5%, for alignment with latest tax law amendments; for year 2018, the percentages were different (2% or 3,5%), depending on their purpose;
- the section for reporting gambling income derived during the period 1 January – 22 March 2018 is now removed from the form. Starting with March 23, 2018, the gambling income is taxed at source and there is no obligation for the beneficiary to declare it through the annual tax return;
- introduction of two new concepts for facilitating the reporting of income from cryptocurrency transactions and income from transfer of debt. Thus, for the purpose of correctly declaring the abovementioned types of income, two new concepts were introduced in the form: "Gain" and "Taxable income";
- new subsection was introduced for correctly reflecting the income from abroad which is tax exempt in Romania based on the provisions of an international tax treaty;
- the incentives granted for the online filing of the tax return are eliminated. The form can now be submitted in both electronic and paper format.

The electronic version of the tax return was published on the National Agency of Fiscal Administration's website on January 27, 2020. At this moment, the filing deadline for the annual tax return is March 15, 2020.

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